"International Trade - 1954" is being prepared and, prior to publication, copies of the draft are being sent to contracting parties.

The drafts of Part III and a section of Part II dealing with quantitative restrictions are attached hereto. Any contracting party wishing to make suggestions is requested to do so not later than 15 June. It will be noted that Section II B includes statements about the retention of quantitative restrictions for protectionist purposes. These statements are based upon information furnished by European governments to the OEEC and it is understood that, in principle, the staff of the OEEC has no objection to such use of this information. A copy of the Section II B draft is being sent to the Secretary-General of the OEEC.

The drafts of Part I and of the sections of Part II dealing with tariffs and bilateral agreements will be distributed shortly.
PART III

PRINCIPAL ACTIVITIES OF THE CONTRACTING PARTIES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The CONTRACTING PARTIES to the General Agreement on Tariffs and Trade have concluded their most active year since the Agreement came into force in 1947. The past year has seen not only a greater number of important decisions required for the administration of the existing Agreement, but a thorough review of the terms of the General Agreement itself, the preparation of a blueprint for a permanent organization, and the completion of a new round of tariff negotiations to pave the way for the accession of Japan.

International Trade 1953 and the previous reports in this series ¹, contained brief summaries of the activities of the CONTRACTING PARTIES for the year concerned without attempting to trace the origins or restate basic purposes of the General Agreement. Since an important part of the activities of the CONTRACTING PARTIES during the past year, however, has been devoted to renegotiation of the basic provisions of the General Agreement, a brief summary of the background of the Agreement seems necessary to an understanding of the reasons for the Review and the importance to world trade of the decisions that were reached. While the volume of regular business that was also conducted by the CONTRACTING PARTIES during the year was too great to permit a complete report, some of the more important matters dealt with at the Ninth Session of the CONTRACTING PARTIES will be summarized briefly with particular emphasis on those developments that should have a specific bearing on the trading relations between member countries. Among these developments were: the extension of the firm validity of the tariff schedules annexed to the Agreement, further progress in the effort to obtain uniformity and simplicity in customs administration, the settlement of a large number of differences between contracting parties arising out of the application of the terms of the General Agreement and the completion of a special round of tariff negotiations between existing contracting parties and Japan, as a prerequisite to the admission of Japan as a full partner in the Agreement.

THE REVIEW OF THE GENERAL AGREEMENT

Background

The General Agreement on Tariffs and Trade is a multilateral contract between the participating governments, known as "the contracting parties", which was drawn up and signed in 1947 as a temporary arrangement to provide for the interval until the Charter for the International Trade Organization should come into effect. It had been expected that the ITO would play an important rôle in the system of world organizations established shortly after

¹ Sales No. GATT/1954-3

MCT/31/55
World War II for the promotion of international co-operation for the prevention of conflicts that might lead to war. The International Trade Organization never came into being, and the General Agreement has served as the only intergovernmental institution on a world scale devoted to bringing about stability and avoiding frictions in the field of foreign trade.

As originally conceived, the General Agreement was not an institution at all but simply the contractual framework in which to incorporate the extensive tariff reductions and bindings that were negotiated in 1947 at Geneva. These schedules of tariff concessions were reinforced by rules designed to prevent their nullification by trade action outside the tariff field and to provide some order in the trading relations between the contracting parties, such as the rules against discrimination and those limiting the use of quantitative restrictions on imports and exports. No organization in the usual sense of the word was established. The CONTRACTING PARTIES met from time to time, usually annually, to deal with problems arising under the Agreement. Out of these meetings an institution — still provisional and having no formal existence as an organization — has evolved.

The fact that the General Agreement was never expected to play more than a stop-gap role has in one sense been fortunate. For the CONTRACTING PARTIES were able to develop new techniques for meeting problems as they arose unhampered by elaborate rules and detailed organizational provisions. Thus, the emphasis has been more on practical solutions than on conformity to theoretical patterns of behaviour. During the first seven years of its existence the GATT has made appreciable progress in approaching the objectives of the Agreement in spite of its provisional nature and its lack of a formal organization. At Annecy in 1949 and at Torquay in 1951-52 the CONTRACTING PARTIES carried out two further rounds of tariff negotiations which resulted in substantial additions to the schedules of stabilized tariff rates and brought a major part of the world trade of the contracting parties within their scope. With no authority to require compliance with their decisions, the CONTRACTING PARTIES have, over the years, developed practical methods for settling trade disputes between parties to the General Agreement and have developed a body of case law that should facilitate their settlement in the future. They have established a small secretariat to provide the most essential services to their annual meetings. Between sessions, with the aid of the secretariat and an Intersessional Committee, they have been able to provide continuity to their operations and to deal with pressing problems that cannot wait for the annual sessions. Although progress towards the complete liquidation of the bilateral and discriminatory trading practices that developed in the world between 1930 and the end of the second World War has been slower than was hoped in the immediate postwar period, substantial progress has been made.
By the time of their Eighth Session, in late 1953, the CONTRACTING PARTIES decided to take advantage of the experience gained since 1947. They decided that the trade rules in the Agreement should be thoroughly reviewed and that the "organizational" provisions of the Agreement should be examined to determine whether a permanent organization to administer the Agreement in the future should be created. This review was conducted and completed at the Ninth Session of the CONTRACTING PARTIES which met from 28 October 1954 to 7 March 1955.

Results of the Review

The results of the review of the Agreement during the Ninth Session have been published in detail elsewhere, and no effort will be made here to do more than summarize some of the outstanding results. Probably the most important result was the least tangible, since it did not involve any change in the Agreement itself. The original Agreement had been drawn up at a time when governments had been through a major war and were determined to substitute co-operation for economic warfare. After seven years of actual experience with these rules, it was of paramount importance that they be either reaffirmed by governments or reshaped in a form that governments could accept and would undertake to carry out. Essentially, the Review resulted in a reaffirmation of the cardinal rules of the Agreement. The amendments that were adopted were designed to make them in some cases more flexible and in other cases more firm, depending upon the lessons of practical experience. But in no case were the fundamental principles discarded. In the course of the Review the CONTRACTING PARTIES agreed to grant certain specific waivers from the obligations of the Agreement. These are referred to later in this Report.

Extension of Tariff Concessions

The CONTRACTING PARTIES decided to prolong the firm life of the existing tariff concessions under the Agreement from 1 July 1955 to 31 December 1957. Further, in order to avoid the periodic necessity of similar action in the future they amended Article XXVIII of the Agreement to provide for the automatic extension of schedules in the future, by periods of three years, with provisions to enable contracting parties to renegotiate selected items at the end of each period and also to seek special authority to renegotiate concessions during the bound period in cases where circumstances require that a bound rate be modified.

Quantitative Restrictions

No change was made in the basic principle of the Agreement that contracting parties which maintain quantitative restrictions for balance-of-payments reasons have to eliminate them as soon as they can no longer be justified for balance-of-payments reasons. But in order to make this principle more effective in practice and particularly in order to adapt it to a period when the major currencies may become convertible, it was agreed that, soon after entry into force of the amendments, the Organization will review all quantitative restrictions still maintained for balance-of-payments reasons. Thereafter a system of annual consultations with contracting parties still applying restrictions of this type will come into effect and these countries will be required to justify each year the restrictions still being maintained.

1 Third Supplement to the Basic Instruments and Selected Documents, Final Act and Instruments adopted at the Ninth Session, March 1954.
Assistance for Economic Development

The need to encourage and facilitate the development of the economies of countries which can only support low standards of living and are in the early stages of development is consistent with the long-term objectives of the General Agreement, and steps were taken in the review to reduce to a minimum the conflict which may arise between the requirements of economic development and the short-term commercial interests of the other countries. Under the new provisions it has been recognized that contracting parties in the early stages of development should enjoy additional facilities to enable them (a) to maintain sufficient flexibility in their tariff structure to be able to grant the tariff protection required for the establishment of particular industries and (b) to apply quantitative restrictions on imports, to protect their balance of payments in a manner which takes full account of the continued high level of demand for imports likely to be generated by their programmes of economic development.

Subsidies

The existing provisions of the Agreement designed to limit the harmful effect of export subsidies were extended and tightened. In the field of primary products contracting parties will be under an obligation not to use subsidies which increase exports so as to obtain for themselves more than a fair share of world trade. In the field of non-primary products no new or increased export subsidies will be permitted. The Contracting Parties agreed that there should be a re-examination to determine before the end of January 1957 whether existing export subsidies on non-primary commodities can be abolished or whether the maintenance of the standstill should be extended for a further period.

The Organization for Trade Cooperation

The CONTRACTING PARTIES drew up an Agreement which, when it comes into force, will establish a permanent Organization for Trade Cooperation. The Agreement contains the basic provisions relating to the structure and functions of the Organization. There will be an Assembly, an Executive Committee and a secretariat headed by a Director-General.

The main functions of the Organization will be to administer the General Agreement. In addition, the Organization may sponsor international trade negotiations and serve as an intergovernmental forum for the discussion and solution of other questions relating to international trade.

The results of the Review of the General Agreement were incorporated in certain Decisions and Resolutions passed at the Ninth Session, in Protocols of the Amendment of the General Agreement and in an Agreement establishing the Organization for Trade Cooperation. The Protocols of Amendment will come into effect when they have been accepted by governments in accordance with the amendment procedures in Article XXX of the existing Agreement. The Organization for Trade Cooperation will come into being when it has been accepted by contracting parties whose foreign trade represents 85 per cent of the aggregate foreign trade of the contracting parties as a whole.

1 Final Act and Instruments adopted at the Ninth Session, March 1954.
ADMINISTRATION OF THE AGREEMENT

In addition to the review of the Agreement itself and the important decisions that arose out of that review, the CONTRACTING PARTIES disposed of an unusually heavy volume of business at the Ninth Session relating to the administration of the existing agreement. As mentioned above, only some of the more important of these are touched on.

Settlement of Differences

The methods that have been evolved by the CONTRACTING PARTIES for dealing with complaints have been described in previous reports. These procedures have proved sufficiently effective to encourage their constantly greater use as a means of settling differences between contracting parties and have almost certainly prevented resort to unilateral reprisals and trade warfare. At the Ninth Session fifteen contracting parties invoked the complaints procedure, and seventeen separate complaints were considered. Of these, ten were removed from the agenda before the end of the Session either because they had been finally settled to the satisfaction of the parties concerned or because settlement by negotiation appeared imminent.

A number of cases were mentioned in the previous Annual Report which had been submitted to the complaint procedure but had not been finally settled by the end of the Eighth Session. At the Ninth Session several of these were finally disposed of:

1. Brazilian Compensatory Concessions - At the Eighth Session the CONTRACTING PARTIES had considered a complaint by the United States and the United Kingdom that Brazil had failed to make effective certain concessions to which she had agreed in tariff negotiations in 1949. The CONTRACTING PARTIES urged Brazil to put these concessions into effect without further delay. At the Ninth Session, Brazil was able to announce that she had given effect to the concessions by a Decree of 11 December 1954.

2. Belgian Dollar Import Restrictions - As previously reported the United States and Canada had complained that certain exchange restrictions by Belgium against dollar imports were not justified by balance-of-payments difficulties. Early in the Ninth Session the Belgian delegation announced that the exchange restrictions had been entirely removed.
3. Belgian Family Allowances - Seven contracting parties had complained of the discriminatory application by Belgium of a 7½ per cent import levy which was assessed against imports from certain countries which did not have laws relating to the payment of family allowances equivalent to those of Belgium. The CONTRACTING PARTIES had recommended that the Belgian Government remove the discrimination. At the Ninth Session Belgium announced the suppression of the tax in question.

4. French Statistical Tax on Imports - The French delegation had recognized at the Eighth Session that an ad valorem tax imposed by France on imports and exports, which was designed to provide social insurance funds, was contrary to the provisions of the Agreement. Early in the Ninth Session France announced the suppression of the tax until 31 December 1954. On 10 January 1955 the French delegation was able to announce that the tax had been finally abolished by Decree 54-1318 of 31 December 1954.

At the Ninth Session a number of new complaints were finally disposed of and removed from the agenda, either as a result of a satisfactory explanation on the part of the country maintaining the measure in question or by the abolition of the measure itself:

1. French Stamp Tax - The United States complained against an increase from 1.7 to 2 per cent in this tax. The French representative explained that such a tax had been explicitly provided for in the Schedule of French concessions appended to the General Agreement, that its proceeds were used to defray costs incurred by French Customs in the clearance of imported goods and that the increase was required by an increase in the cost of services rendered. The United States delegation accepted the explanation and withdrew the item from the agenda.

2. Peruvian Prohibition of Imports from Czechoslovakia - Czechoslovakia complained against a Peruvian Decree which prohibited all imports from a number of countries. The only contracting party affected by the Decree was Czechoslovakia. The delegation of Peru acknowledged that the Decree was inconsistent with its obligations under the General Agreement toward another contracting party and before the end of the Ninth Session was able to announce that it had been rescinded.

3. German Import Duties on Starch and Potato Flour - The Benelux countries contended that in the tariff negotiations at Torquay, Germany had undertaken to reduce as soon as possible the duties on potato flour, starch and their derivatives to the corresponding Benelux rate of 15 per cent, but had not yet carried out this undertaking. The matter was referred to the Panel on Complaints.
While the German delegation disagreed with the Benelux interpretation of the Torquay agreement, the two delegations, with the mediation of the Panel, agreed to a compromise under which the German delegation would recommend to its Government and Parliament the introduction of a customs quota of 20,000 tons of potato starch at 15 per cent, a reduction of the duties on maize and wheat starch to 15 per cent and further negotiations concerning the tariff rates on other items involved.

4. Greek Luxury Tax and Tariff Changes - The Italian Government complained that a luxury tax imposed on certain products of artificial textile fibre and manufactures exceeded the charges imposed on the domestic products and were therefore in contravention of the General Agreement. At the same time, Italy contended that, in carrying out the previously authorized transposition of its specific duty rates to adjust to the recent devaluation of the Greek currency, Greece had introduced certain minimum ad valorem rates which could have the effect of increasing the actual incidence of the tariffs that had been bound in the Greek Schedule. A number of other delegations associated themselves with this complaint. After consultation the affected delegations were satisfied that Greece had abolished the luxury tax on certain fibres, and they accepted a Greek undertaking to continue to eliminate the remaining discrepancies between the tax charged on imported rayon products and domestic products. As for the minimum ad valorem duties Greece agreed to forego the imposition of such duties when adjusting her specific rates and obtained agreement from the interested delegations in certain cases where, for technical reasons, it had been necessary to alter the incidence of the tariff. The delegations concerned agreed that the complaint should be removed from the agenda.

5. Belgian Restrictions on Coal Imports - The United States filed a complaint at the beginning of the Session concerning restrictions on dollar coal imports imposed by Belgium as an incidence to her membership in the Coal and Steel Community and in the Benelux Customs Union. After consultations between the governments concerned, Belgium substantially increased the import quota on United States coal, and the two Governments agreed to conduct a joint review of the situation during 1955. The item was withdrawn from the agenda of the Ninth Session.

A number of other cases were either disposed of without difficulty at the Ninth Session or were postponed pending the outcome of negotiations between the parties concerned. An Italian complaint against Turkish import taxes and export bonuses was settled between the two parties. In the case involving the United States duty on dried figs, referred to in the previous Report, the United States reached agreement with Greece on compensation and agreed to continue negotiations with Turkey and Italy. A complaint by Italy
and South Africa concerning a United States export subsidy on oranges was carried over to the agenda of the Tenth Session. Other items continued to the Tenth Session included the earlier recommendation by the CONTRACTING PARTIES that Brazil abolish certain internal taxes which were found to discriminate against imports and a United States complaint against German discrimination affecting coal imports.

The CONTRACTING PARTIES paid specially close attention to a complaint by Italy, endorsed by others, against the French special temporary compensation tax on imports. They found that this tax, while temporary and transitional, had had the purpose and effect of protecting French industries which were exposed to import competition as a result of the removal of quantitative restrictions under France's liberalization programme. They found that a contracting party whose trade is adversely affected would have grounds for requesting compensation under Article XXIII of the Agreement. They recommended that the French Government take steps to reduce the discrimination against the trade of contracting parties whose exports are subject to the tax and called upon the French Government to implement its undertaking to remove the tax as soon as possible and to report to the Intersessional Committee the measures taken.

In the case of the United States import restrictions on dairy products, the CONTRACTING PARTIES reiterated their previous recommendation that these restrictions be removed and continued the authorization to the Netherlands to suspend the application to the United States of certain obligations in order to compensate that Government for the effect on its trade of the restrictions in question. In this connection, attention is drawn to the decision of the CONTRACTING PARTIES to grant a waiver recognizing the right of the United States in future to impose restrictions required under the Agricultural Adjustment Act - this is described below.

Finally, the CONTRACTING PARTIES acted upon a detailed report and recommendations by the Panel on Complaints concerning an Italian claim that Sweden had acted contrary to the Agreement in the application of anti-dumping duties against the importation of Italian nylon stockings. This was the first case involving anti-dumping or countervailing duties and was examined at length by the Panel on Complaints in consultation with the representatives of both Governments. The General Agreement permits a contracting party to impose anti-dumping duties against imports from a country which practises dumping but not in excess of the "margin of dumping". In May 1954 Sweden introduced anti-dumping duties on imports of nylon stockings, applicable whenever the invoice price was lower than a minimum price fixed by the Swedish Government. Italy complained that this system resulted in arbitrary duties which had no necessary relationship to any dumping that might be practised. Although a new Decree of 15 October 1954 abolished the minimum prices as the basis for determining the amount of duty, these prices were retained as an administrative device for determining what imports should be subjected to examination. The Italian Government contended that the system was still inconsistent with the provisions of the General Agreement in that it discriminated arbitrarily against low-cost producers, failed to take into account actual differences in cost between exporting countries and between
various qualities, prejudiced the decisions of customs authorities in examining
individual cases, placed the burden of proof on the exporter and subjected
imports of low-priced goods to undue delay and expense. The case was referred
by the CONTRACTING PARTIES to the Panel on Complaints. The Panel sustained
some of the counter arguments of the Swedish delegation but concluded that the
system might easily result in the imposition of duties when not permitted by
the provisions of the General Agreement. Following the advice of the Panel,
the CONTRACTING PARTIES recommended that the Swedish Government consider ways
and means of improving the administration of the Decree; that the two Govern­
ments facilitate an enquiry by the Swedish authorities to determine whether
Italian nylon stockings are in fact exported to Sweden at less than their
normal value and that the two parties report to the Tenth Session, or to the
Intersessional Committee, which was authorized to take such action as might
be appropriate. This recommendation was accepted by Italy and Sweden.

CUSTOMS ADMINISTRATION

Methods of Valuation for Customs Purposes

The CONTRACTING PARTIES at their Eighth Session inaugurated a study into
the various methods of valuation used by governments for customs purposes and
authorized the Executive Secretary to circulate a questionnaire which all
contracting parties were asked to answer. At the Ninth Session a Technical
Group studied the replies received from all but three of the contracting
parties. The Technical Group found that virtually all governments use one
or more of the following three criteria in determining the value of imported
goods for customs purposes:

1. the price of comparable goods in the market of the exporting country;

2. the actual price at which the goods in question were sold by the
exporter;

3. the price of comparable goods in the markets of the importing country.

Within each of these general criteria, however, there are many variations.
Apart from the nine countries which use a common definition of value under the
Brussels Convention, there are marked differences even between countries which
use the same criteria.

---

1 A limited number of copies of the replies from governments on which these
reports are based are available and will be provided on request to
interested governments or to business or trade associations.
The reports have been published in Basic Instruments and Selected Documents,
Third Supplement.
Countries which use the domestic value in the country of export differ in the time selected for determining comparable value. Some countries establish the value at an f.o.b. point, others at a point prior to the f.o.b. level and others at a subsequent point, equivalent to c.i.f. Similarly, countries which use transaction value have different practices as to the time and place on which the transaction is assumed to have taken place.

No action was taken by the CONTRACTING PARTIES, but it was generally agreed that the information contained in the replies by governments and in the Report of the Technical Group would constitute a useful source of reference and a basis for further studies.

**Documentary Requirements**

On 7 November 1952 the CONTRACTING PARTIES adopted a Code of Standard Practices to limit the number and kind of documents required by governments in connection with the importation of goods. Contracting parties were asked to apply the standards in this Code promptly and to report by 1 August 1954 on the steps that had been taken. The reports by contracting parties and a summary of the results prepared by the secretariat were considered at the Ninth Session. The replies showed that most of the recommendations of the Code are being fully or substantially complied with by most of the countries replying. A very substantial variation was found, however, in the manner in which governments are complying with the recommendation that they keep down to a strict minimum the number of documents required. Most of the reporting governments advise that they require only one or two copies of documents. However, two countries require five copies of the consular invoice and two others require four. One country requires five copies of the commercial invoice. In the most extreme case, a country requires eight copies of the consular invoice, eight copies of the commercial invoice and five copies of the bill of lading, but this country indicated that its entire system of consular requirements is under review for the purpose of simplification.

**Consular Formalities**

In November 1952, the CONTRACTING PARTIES also urged governments to abolish as soon as possible and in any case not later than 31 December 1956, all consular invoices and visas for commercial invoices, certificates of origin, manifests, etc. Contracting parties which maintain such formalities were asked to report annually on the steps they had taken to abolish them.

The reports that were considered at the Ninth Session showed that the governments of twenty-two of the contracting parties have no regulations requiring consular invoices for goods imported from other contracting parties. This list included two contracting parties, Belgium and the United Kingdom, which had previously maintained consular requirements in a limited number of cases. Four others reported that they require consular invoices or visas only in very limited and specified circumstances. Of the nine governments
which reported that they still maintain consular formalities, one has eliminated them in the case of imports from a rapidly increasing list of countries of origin. Progress toward the final abolition of consular invoices or visas was apparent in a number of other cases. The Technical Group which examined the replies for the CONTRACTING PARTIES concluded that further progress had been made and expressed the hope that the formalities still existing would be eliminated within the time recommended by the CONTRACTING PARTIES, namely 31 December 1956.

**Nationality of Imported Goods**

At their Eighth Session the CONTRACTING PARTIES submitted to governments for study and comment a standard definition of origin for use by governments in connection with their customs administration. By the Ninth Session comments had been received from twenty-one governments. Although a number of those which replied were prepared to accept the definition as written, a majority were either opposed to an attempt to formulate a definition to be commonly applied or considered that some changes in the definition would be needed. In spite of these basic differences in view, the CONTRACTING PARTIES decided to study the question further at their Tenth Session.

**International Convention to Facilitate the Importation of Commercial Samples and Advertising Material**

In November 1952 the CONTRACTING PARTIES drew up and opened for acceptance by governments an International Convention designed to bring about the adoption of uniform regulations regarding the importation of samples and advertising matter. The Convention contains provisions requiring: exemption from import duties for samples of negligible value, temporary duty-free admission of other samples, duty-free admission of advertising material, the temporary waiver of import prohibitions and restrictions, etc. Under its terms the Convention will come into force when instruments of ratification, acceptance or accession have been deposited by fifteen countries. A number of additional acceptances have been obtained since the Eighth Session of the CONTRACTING PARTIES, and as of 24 March 1955 nine countries had deposited the necessary instruments: Pakistan, Indonesia, Finland, India, Spain, Norway, Switzerland, Greece and Sweden. At the Ninth Session of the CONTRACTING PARTIES the representatives of eight more governments announced that bills providing for acceptance or ratification of the Convention would shortly be submitted to their respective legislatures.

**DISCRIMINATION IN TRANSPORT INSURANCE**

At their Eighth Session the CONTRACTING PARTIES, acting on the basis of a resolution of the Economic and Social Council, asked the Executive Secretary to circulate a questionnaire and on the basis of the replies to
prepare a report on the extent to which governments require that their traders discriminate in favour of domestic over foreign insurance companies in the purchase of transport insurance. A questionnaire was circulated to all contracting parties and, through the Secretary-General of the United Nations to other countries, and thirty-six replies were received.

From these replies, it appears that fourteen of the forty-six countries on which information was available (including countries concerning whom the necessary information was obtained from other sources than the questionnaire) practise discrimination in some form, either by limiting the right of their nationals to purchase from countries of their own choosing or by discriminatory taxation. The information obtained, however, is inconclusive in a number of respects. It is not always clear whether the practices referred to are for the purpose of protecting the domestic insurance business against competition or whether their only purpose is to provide essential protection for the purchaser. Furthermore, the statements made by governments concerning their own practices were not always entirely consistent with information provided by governments concerning the effect on their trade of discriminatory insurance practices by others. The CONTRACTING PARTIES, in considering the results of this study, concluded that the information obtained was sufficient to justify further consideration. They decided to place the question on the agenda for the Tenth Session and meanwhile suggested that governments consult the insurance and commercial interests in their countries in order to determine more precisely the actual effect of these discriminatory practices.
WAIVERS OF OBLIGATIONS

One of the problems of the CONTRACTING PARTIES has been how to obtain the benefit of a code of good behaviour in international trade relations that will be respected by its participants but, at the same time, to avoid excessive rigidity that might encourage evasion or even bring about the complete breakdown of the Agreement. To meet this problem, the Agreement provides procedures under which the CONTRACTING PARTIES may, in special circumstances, waive particular obligations of a contracting party in order to permit measures which are essential to its economic welfare but which would not otherwise be permitted.

At the Ninth Session the CONTRACTING PARTIES granted three important waivers under these provisions.

**Dependent Overseas Territories of the United Kingdom**

The United Kingdom was granted a waiver to permit it, in the interest of the economic development of dependent overseas territories, to take action to protect and strengthen the position in its own markets of the products of colonial territories for which it is responsible. The waiver permits the United Kingdom to grant such assistance or preferential treatment to these products as it would be permitted under the Agreement to apply to its domestic production. Among the important limitations in this waiver are the requirement that it may not be used to benefit United Kingdom producers or to benefit an industry in a territory which does not depend on the United Kingdom for its market. In addition, procedures are provided under which the interests of other contracting parties are to be protected, including a requirement to report annually to the CONTRACTING PARTIES on action taken under the waiver and a requirement for prior approval by them if the contemplated action involves an increase in a margin of tariff preferences not permitted by the Agreement.

**United States Restrictions on Agricultural Imports**

The CONTRACTING PARTIES granted a waiver to the United States to permit it to carry out the requirements of its Agricultural Adjustment Act, under which imports must be restricted or an import fee imposed if the imports interfere with a United States agricultural programme. It was pointed out that the United States system of domestic price supports can have the effect of artificially stimulating imports and requiring the United States Government to support not only the domestic but the world price for the product. Under the terms of the General Agreement, quantitative restrictions on agricultural imports may be applied only where domestic production is similarly restricted. This obligation and the obligation not to impose taxes that discriminate
against imports were waived, subject to a number of safeguards. These safeguards include an assurance by the United States that it will discuss proposed actions in advance with interested contracting parties, a recognition of the right of affected contracting parties to demand compensation, and an annual review by the CONTRACTING PARTIES of any actions taken.

Quantitative Restrictions - The "Hard-Core" Problem

In association with the system of tighter control on the use of quantitative restrictions for balance-of-payments reasons which was worked out during the Review, the CONTRACTING PARTIES took a decision, with immediate effect, to assist in resolving the problems faced by contracting parties in eliminating the so-called "hard-core" of their import restrictions. These are restrictions whose sudden removal, when no longer justified for balance-of-payments reasons, would result in a serious injury to a domestic industry or branch of agriculture, to which they have afforded protection. The decision grants a temporary waiver from the obligation to eliminate quantitative restrictions in such circumstances, subject to the concurrence of the CONTRACTING PARTIES in each case. The CONTRACTING PARTIES may impose such conditions and limitations as they determine to be reasonable and necessary and the obligation is laid on the applicant to eliminate the quantitative restrictions in question over a comparatively short period of time, not exceeding five years. The application of these "hard-core" restrictions and the progress made towards eliminating them will be reviewed by the CONTRACTING PARTIES annually.
At the Ninth Session, the CONTRACTING PARTIES considered the second of the Annual Reports submitted to them by the Member States of the Coal and Steel Community. Under the terms of the waiver granted in 1952 to the Member States of the Community to enable them to establish a common market for coal and steel products, the Member States are required to report each year during the first five years "on the measures taken by them towards the full application of the Treaty". On the basis of information in this report, of additional information supplied by the High Authority at their request, and additional data supplied by the secretariat, the CONTRACTING PARTIES examined in some detail the manner in which the Member States were complying with the terms of the waiver.

In considering the specific measures taken by the Member States under the Treaty, the CONTRACTING PARTIES noted the action that had been taken by the Community in 1954 to establish a common market for special steels, except as regards Italian import duties for which special provision was made in the terms of the waiver. They examined the tariff quotas established by the Benelux countries in accordance with the terms of the waiver and the duties fixed for imports outside those quotas. They also noted that the Member States had continued to have recourse to paragraph 6 of the waiver in maintaining temporary restrictions on exports of scrap. With respect to all these matters the CONTRACTING PARTIES came to the conclusion that actions taken to date by the Member States were consistent with the terms of the waiver.

The CONTRACTING PARTIES also had the opportunity of examining with the representatives of the Member States and the observer of the High Authority other measures taken by the Member States and by the Community in the field of commercial policy. They gave particular attention to the extent to which the interests of third countries had been taken into account during the period under review in the application of export controls on scrap, in the action towards the harmonization of tariffs and other trade regulations, and in the discharge of the Community's undertaking to ensure that equitable prices are charged by its producers in sales to third markets.

While no formal conclusions were reached with respect to these questions, some contracting parties expressed dissatisfaction with the manner in which the Member States and the Community had carried out what they considered to have been a general undertaking to apply liberal trading policies.

Although there was no question as to the right of the Member States to restrict scrap exports to prevent or relieve critical shortages, it was pointed out that the Community had recognized that it should avoid placing unreasonable barriers upon exports to third countries, and the CONTRACTING PARTIES urged that export controls be relaxed as soon as practicable. The
representatives of Germany and France were questioned concerning the possibility that agreements made by their industries to maintain supplies of certain products to individual countries with whom they had concluded agreements would result in discrimination toward third countries. These representatives gave the CONTRACTING PARTIES definite assurances that these commitments would not interfere with their carrying out their obligations under the General Agreement.

Other matters concerning which some dissatisfaction was expressed included: the failure of Italy to reduce its rates on special steel from third countries when the common market was established, the alleged failure of certain countries, in harmonizing their rates, to take adequately into consideration the interests of third countries, and the suspension of the negotiations between the Community and Austria which it had been hoped would provide a solution to the special difficulties created for that country by the formation of the Community.

Two related subjects which received close attention were the existence of export marketing agreements among producers within the Community and the claim that higher prices were being charged for exports of certain steels to third markets than for sales within the Community. The observer for the High Authority stated that the situation with respect to producer agreements was being very closely followed but that the High Authority had not so far been in a position to take any action, as it had not found any evidence that these agreements had had any disturbing effect on competition within the common market. He also maintained that the cases in which higher prices were charged to third countries were exceptional and that in general export prices tended to be lower than internal prices in the Community. The CONTRACTING PARTIES accepted a finding of the Working Party which conducted these discussions that the problem deserved more detailed consideration and that more information concerning price movements should be obtained for use in considering the Third Annual Report to the CONTRACTING PARTIES.

It became clear during the discussion of these commercial policy questions that the meaning of the preamble to the waiver granted by the CONTRACTING PARTIES needed to be clarified and its exact legal force defined. While there was no disagreement as to the determination of the Member States to live up to their obligations under the Treaty; there were differences of opinion as to the extent to which the Member States had accepted these obligations toward the CONTRACTING PARTIES by the terms of the preamble to the waiver. It was agreed, therefore, that the CONTRACTING PARTIES should attempt, before the consideration of the Third Annual Report, to clarify the situation.

The consideration by the CONTRACTING PARTIES of the performance of the Member States under the terms of the waiver was limited to the period covered by the Second Annual Report. It did not, therefore, include
actions taken by the Community since the date of that report. In view of this fact, the Danish representative asked that the CONTRACTING PARTIES to consider during the Ninth Session certain increases in steel export prices that had been introduced since the Report and had not been considered during the consultation with the Member States. Before the close of the Session, however, the Danish representative announced that his Government had undertaken bilateral talks with the High Authority to explore the differences between them regarding export prices on the steel market. These talks had not yet been concluded and would be resumed in the near future. In view of this and the desirability of concluding the Ninth Session, his delegation decided to withdraw their request for such a discussion at that Session but reserved the right to bring the matter again before the CONTRACTING PARTIES.

**QUANTITATIVE RESTRICTIONS**

As explained in earlier reports, the CONTRACTING PARTIES are required by the General Agreement to prepare a report annually on the action still being taken by contracting parties under those provisions of the Agreement which permit the discriminatory use of quantitative restrictions for balance-of-payments reasons.

The fifth annual Report on the discriminatory application of import restrictions drawn up at the Ninth Session was based on information supplied by the contracting parties concerned and made use of information provided by the International Monetary Fund in connection with consultations conducted by the CONTRACTING PARTIES with individual countries. It shows that twenty-one of the thirty-four contracting parties have stated that they maintain restrictions on imports to safeguard their balance-of-payments and are exercising some degree of discrimination in the application of those restrictions. In addition, Japan, which was not a contracting party at the time of the Session but whose commercial relations with most contracting parties are based upon the Agreement, stated that it resorts to such measures. Nine contracting parties stated that they employ no quantitative restrictions for balance-of-payments reasons and the remaining four indicated that their balance-of-payments restrictions are non-discriminatory.

When a similar report was prepared at the Eighth Session in October 1953, the CONTRACTING PARTIES had noted that there had been a marked improvement in the world dollar situation and that certain contracting parties whose payments position had improved had made substantial reductions in their restrictions and discrimination. In the period under review, this improvement had generally continued, though there remained a few countries for which the difficulties of preceding years have persisted. There have been further increases in gold and dollar reserves held outside the United States. A number of the more important trading countries have continued to introduce

---

1 See Basic Instruments and Selected Documents, Third Supplement
greater freedom in their international transactions and to reduce the
degree of restrictions previously imposed. In contrast to the liberaliza­
tion measures prior to 1953, many of these measures involved a relaxation
of restrictions on imports from the dollar area.

Some of the most far-reaching steps towards removal of discrimination
in imports from hard-currency areas have been taken by the most important
trading countries such as the United Kingdom and Germany, but there has
also been substantial relaxation by a number of other countries. On balance,
restrictions on imports from the hard-currency areas have been greatly re­
duced, and the general level of such restrictions is lower than at any time
since the war. Even though there has at the same time been a substantial
move towards liberalization of imports of soft-currency imports, the report
concluded that there were substantial grounds for believing that a general
decrease in the degree of discrimination had occurred during the period
under review.

As against this general picture of improvement, the CONTRACTING PARTIES
found that there still remains a significant degree of discrimination against
imports from the dollar area in many parts of the world and that the trend
ward liberalization was by no means uniform. For example, relaxation has
occurred particularly with respect to imports of industrial raw materials
and other basic commodities, though even in this field certain important
products remain subject to discrimination in several countries. Many manu­
factured goods are still subject to severe discrimination, often amounting
to prohibition.

The CONTRACTING PARTIES again called attention to the widespread
existence of bilateral trade agreements. While the scope of such agree­
ments had been narrowed by the reductions in balance-of-payments difficulties,
the commercial motivation of the remaining arrangements was clearly revealed
by the changing character of the agreements themselves. The emphasis on
agreements aimed at a balancing of trade between partners has shifted to
agreements which give each participant special advantages for particular
commodities in the market of the partner country. In this connection, the
CONTRACTING PARTIES called attention to the continued existence in some
countries of multiple rates of exchange. Even though these systems are
maintained for balance-of-payments reasons under the Articles of Agreement
of the International Monetary Fund, they inevitably have commercial effects
which may involve discrimination. The CONTRACTING PARTIES recognized that
the use of such devices as discriminatory bilateral agreements may be unavoid­
able in certain circumstances, but expressed the view that such practices
should have a diminishing role in a world moving towards convertibility and
that it would clearly be in the interest of the countries concerned if
vigorous action were taken for their elimination so that discrimination
would not be perpetuated after balance-of-payments difficulties had ceased
to exist.