CONTRACTING PARTIES
Thirteenth Session

FREIGHT DUMPING

Memorandum submitted by the Delegation of the
Union of South Africa

The following memorandum has been submitted by the South African delegation with the request that the CONTRACTING PARTIES, at this Session, deal with the matter described therein:

"The Union of South Africa has traditionally been a substantial importer of paper and paper products. In recent years, however, a local paper producing industry has been established, based on the use of indigenous materials. The South African Government, after a careful expert investigation, satisfied itself that this industry was one which promised to become established on an economic basis. In order, therefore, to assist the industry in overcoming the difficulties normally experienced by infant industries during the establishment period, it was granted tariff protection. The protection granted is moderate, amounting to only 5/8 penny per pound, plus 10 per cent ad valorem, on paper of the types classifiable under South Africa's tariff item No. 295(f), and 10 per cent or 15 per cent (depending on type) on paper products classifiable under tariff item No. 287(l).

"This level of protection was considered to be the minimum on which the industry could maintain itself against foreign competition, having regard to the level of freight rates and other import costs which prevailed at the time the protection was granted.

"In recent months there has been a sudden and steep reduction in the freight rate for certain of these types of paper on the shipping route connecting South Africa with a country which is an important supplier of the types of paper concerned. The freight rate declined from the equivalent of 264/- per ton in June 1958 to the equivalent of 157/- per ton in September.

"It is significant that the shipping companies have not undertaken any general reduction of their freight tariff, but have resorted to a specific reduction on paper products only.

"This reduction in freight has led to a flood of imports from the country in question which has impaired the tariff protection granted to the South African industry. Careful investigation has shown that, unless immediate corrective measures are taken, the industry is bound to suffer serious damage which may well ultimately force it to cease operations.
"South Africa has not entered into any commitments under the General Agreement in respect of the relative items in its customs tariff. It is, therefore, at liberty to counteract the effect of the freight reduction by raising the import duties on the products concerned. Such action would, however, have an adverse effect on imports from all sources, and may easily lead to a permanent increase in the protective margin, since any subsequent move to restore the import duties to their current lower levels is bound to encounter strenuous opposition.

"In the circumstances the South African Government considers that the most appropriate course would be for South Africa to take action in terms of the anti-dumping provisions of its customs legislation. This legislation which, incidentally, was in operation prior to 30 October 1947, authorizes, in cases such as the present, the imposition of a freight dumping duty equal to the difference between the normal rate of freight chargeable and the rate of freight actually paid. (In this connexion contracting parties may wish to consult the section dealing with South Africa in document L/712 dated 23 October 1957, particularly sections 83 (1)(d), 83 (2) and 84 (d) appearing on pages 94 and 95).

"This course would have two obvious advantages. Firstly, the duty would only apply to shipments conveyed by particular shipping lines, namely, lines resorting to freight dumping. Secondly, the duty would be of an entirely temporary nature and would cease to be operative as soon as the rate of freight reverts to the normal level.

"The South African Government maintains that the practice of freight dumping resorted to by the shipping companies in question has created a situation of the nature referred to in paragraph 1 of Article XXIII which impairs one of the benefits South Africa had expected to obtain from its accession to GATT, namely, retention of the freedom of action to grant a reasonable measure of tariff protection to its domestic industries without having to impose duties in excess of what the South African Government regards as being in the best interests of the country, merely because the levying of duties of this magnitude represents the sole means by which South Africa can comply with the GATT rules on non-discrimination.

"The South African Government accordingly desires to bring this matter to the attention of the CONTRACTING PARTIES in terms of the applicable provisions of Article XXIII and to request a ruling from them that, in the particular circumstances of the case, the imposition of a countervailing duty (in the form of a freight dumping duty as explained above) would be less restrictive of trade than the raising of the normal rate of duty on a non-discriminatory basis, and would thus be fully in conformity with the spirit and objectives of the General Agreement.
"As early action must be taken by the South African Government to avert the threat with which the particular industry is now confronted, it is desired that the CONTRACTING PARTIES express themselves on the matter at the earliest opportunity."