Marketing Laws Negative List (Annex E to the Decision)

12. In discussing the Marketing Laws Negative List, several representatives stressed the continuing importance which their governments attached to the provisions of paragraph 2(a) of the Decision under which the Government of the Federal Republic undertook in the application of the Marketing Laws and within the limitations imposed by those laws, to endeavour to establish conditions which would afford increasing opportunities of access to the German market for the products covered in Annex E. They noted that this paragraph of the Decision also required the Federal Republic to keep the restrictions on the products in this Annex under constant review with the object of liberalizing as many as possible of the products on the de facto basis applicable to Annex D, and asked to what extent this condition had been observed by the Federal Republic and whether increasing opportunities had been afforded to exporters of the products concerned since the decision came into operation.

13. The representative of the Federal Republic of Germany stated that Annex D in its present form represented almost the full scope for flexibility allowed to the government under the Marketing Laws and, without a complete revision of the Marketing Laws, there could be little possibility of any significant additions to Annex D. He reminded the Committee that, as the delegation of the Federal Republic had stated in May, the main reason for the inability of the Government of the Federal Republic to revise the Marketing Laws at the present time, even though these were acknowledged to be out of Spec(59)313/Add.1
date in some respects, was that they would need to be revised in the context of the common agricultural policy of the European Economic Community and it would be at least six months before the main features of this policy could be known. It was not possible at the present time to inform the Working Party whether all the items at present listed in Annex E would be subject to the provisions of the common agricultural policy or whether individual member-states would be empowered to adopt separate policies in relation to specific items.

14. Members of the Working Party stressed their view that the revision of the Marketing Laws in the context of the common agricultural policy of the Community should not prevent the fulfilment of the undertaking in paragraph 2(c) of the Decision. Since the framework of the Marketing Laws permitted de facto liberalization, and since this had already been put into operation for some products, it was difficult to appreciate the reasons which made it impossible for the Government of the Federal Republic to apply de facto liberalization to more items. They emphasized that acceptance of the retention of quantitative restrictions of the items in Annex E had represented a real effort to accommodate the difficulties of the Federal Republic and stressed the importance which they attached to the implementation of the undertakings which had been made in respect of these items.

15. The representative of the Federal Republic reminded the Working Party that the undertakings given by his country were conditioned by the limitations imposed by the Marketing Laws. The Government of the Federal Republic had exercised the maximum flexibility permitted by those laws; negotiations had been carried out with all interested countries and agreements had been reached with almost all interested contracting parties. Furthermore, the level of
imports of the products concerned had been maintained.

16. Members of the Working Party considered that the bilateral negotiation of quotas might result in even greater discrimination than had existed previously in that larger shares of the German market might now be reserved to some countries than would have been achieved in the absence of bilateral quotas. In this connection, they noted that paragraph 2(c) of the Decision required that, in cases in which a quota was allocated among supplying countries, the Federal Republic should consult with all other contracting parties having a substantial interest in supplying the product concerned with respect to the allocation of shares in the quota. In their view the provisions of Article XIII:3(c) of the General Agreement required that contracting parties should be informed of quota arrangements in addition to publication in official gazettes, and stressed their view that the Federal Republic should, in the administration of quotas, conform with the provisions of this paragraph of Article XIII.

17. Members of the Working Party noted that, although some imports were now permitted of items where formerly there had been a complete ban, nevertheless many items still remained subject to complete import prohibition.