GERMA N IMPORT RESTRICTIONS

Proposal by the United States Delegation

The following draft decision is circulated at the request of the United States delegation as a proposed basis for discussion. This draft embodies some of the suggestions which were discussed in the course of the consultations with the Federal Republic.

DRAFT DECISION

CONSIDERING THAT

(1) at their twelfth session the CONTRACTING PARTIES, on the basis of the findings of the International Monetary Fund regarding monetary reserves and balance of payments of the Federal Republic of Germany, decided that the Federal Republic was no longer entitled to maintain import restrictions under Article XII;

(2) the Federal Republic contends that in accordance with paragraph 1(a) (i) of the Torquay Protocol, it is entitled to maintain restrictions on imports of products specified in the Agricultural Marketing Laws, but that most contracting parties do not accept this contention;

(3) the Federal Republic believes that the sudden removal of restrictions on certain imports both in the agricultural and industrial fields would cause serious injury to the domestic industries concerned which could be avoided if the removal of the restrictions were spread over a period of time;

TAKING NOTE THAT

(1) the Federal Republic has since the date of the findings and Decision referred to above from time to time proceeded by successive stages to reduce the number of import restrictions still maintained by it;
the Federal Republic intends to take the further measures of liberalization set out in Annex A (List I, II, III and VIII plus the items from List VII set out in Appendix X hereto) to this Decision;

(3) as regards the products listed in Annex B (that part of List VII not included in Appendix X) the Federal Republic will keep the restrictions on these products under constant review and will use its best endeavours to remove such restrictions at the earliest possible date, and meanwhile, endeavour to improve conditions of access to the German market for all contracting parties, according sympathetic consideration to such representations as interested contracting parties may make to the Federal Republic. The Government of the Federal Republic will administer any restrictions remaining on these products in accordance with Article XIII of the General Agreement;

(4) restrictions on products listed in Annex C (List IV) will be progressively relaxed and liberalized in accordance with the terms and conditions set forth in that annex;

(5) the Federal Republic is ready to make all possible efforts to reduce the number of restrictions still maintained and, therefore, to lessen the scope of the problem. In particular, when reviewing the Marketing Laws, the Federal Republic will seek to ensure that any measures applied to products covered by these laws are consistent with the General Agreement;

The CONTRACTING PARTIES, pursuant to paragraph 5 of Article XXV of the General Agreement

DECIDE TH.AT:

Without prejudice to the legal question referred to in the second paragraph of the Preamble to this Decision and subject to the conditions and procedures set out hereunder, the Federal Republic of Germany may, notwithstanding the provisions of Article XI, maintain the restrictions on products enumerated in Annexes D (List V) and E (Marketing Law negative list) to this Decision;

The conditions and procedures referred to above are:

(1) Restrictions maintained on the products listed in Annex D shall be so administered as to impose no practical impediment to imports from any contracting party to the General Agreement - that is to say - that these products shall be the subject of unlimited global tender arrangements without restrictions as to quantity or source of supply.

(2) Restrictions on the products enumerated in Annex E shall be subject to the following terms and conditions:

(a) The Government of the Federal Republic, in the application of the Marketing Laws and within the limitations imposed by those laws, will endeavour to establish conditions which will afford increasing opportunities of access to the German market for the products concerned. In this connexion, the Federal Republic will accord sympathetic consideration to representations made by interested contracting parties. The Federal Republic will keep the restrictions on products in Annex E under constant review with the object of liberalizing as many as possible of the products on the de facto basis set out in paragraph 1 of this Decision.
(b) They shall be administered in accordance with Article XIII of the General Agreement. In cases in which a quota is allocated among supplying countries, the Federal Republic shall 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.

(3) The Federal Republic shall consult with the CONTRACTING PARTIES annually and report on the progress achieved in the relaxation or elimination of the restrictions maintained on the products listed in Annexes A to E.

(4) This Decision shall be reviewed at the fifteenth session with particular regard to the results of the consultations referred to in paragraph 2 (b) of this Decision and the note to Section D of List III of Annex A. Subject to the outcome of this review, the present Decision shall remain in effect until the close of the first regular session of the CONTRACTING PARTIES after it shall have been in effect for three years.

THE CONTRACTING PARTIES DECLARE

that this Decision shall not preclude the right of affected contracting parties to have recourse to the appropriate provisions of Article XXIII.

Note

The items contained in List VIII of the German proposal would be added as Section D to List III in Annex A with the following note:

"D. Products for the liberalization of which no specific date can now be fixed by the German Government.

"The removal of these restrictions is under continuous consideration by the Federal Republic. It is the intention of the Federal Republic to initiate and actively pursue consultations with the contracting parties principally interested as suppliers of the products in question, with a view to bringing about such liberalization as soon as possible. The Federal Republic will report to the fifteenth session of the CONTRACTING PARTIES on the action taken."