1. In accordance with its terms of reference, the Working Party has carried out the consultation with the Government of the Federal Republic of Germany under paragraph 3 of the Decision of 30 May 1959 concerning its import restrictions. The Working Party had before it the third annual report under the Waiver Decision (L/1603), together with statistical data on imports of products subject to restrictions and a list of import quotas for agricultural products contained in bilateral agreements (MGT(61)31) submitted by the Government of the Federal Republic.

2. The present report summarizes the principal points of discussion and the views of the Working Party on the application of the Decision by the Federal Republic of Germany. Annexed to the report is a list showing products included in the various annexes to the Decision which are at present still subject to import restrictions; this list was furnished by the delegation of the Federal Republic of Germany at the request of the Working Party.

Sections A to C of Annex A (Liberalization List)

3. The Working Party noted that, with the exception of two items (item Nos. 03.02 19 ex Herring fillets, salted or in brine; and 03.02 51 Herrings, salted or in brine), quantitative import restrictions had been removed from all products included in Sections A, B and C of Annex A, in some instances ahead of schedule. For the two excepted items, the representative of the Federal Republic of Germany explained that quota arrangements had been maintained to meet the special circumstances of the herring trade, with the agreement of the substantially interested countries. Import restrictions on slaughtered chickens (item No. 02.02 50 ex) which were to be removed by 1 July 1962, had in practice already been eliminated; formal liberalization would take place on 1 July 1962, the date indicated in the Annex to the Decision.

1 BISD Eighth Supplement, pages 31 et seq.
Section D of Annex A (Goods to be liberalized after consultation)

4. The Working Party was informed that since the last consultation import restrictions and discrimination had been removed for fifteen items (with effect from 1 January 1961) and that with respect to a further number of items liberalization had been fixed for 1 January 1963 and 1 January 1965. For certain items no date for import liberalization had been established (see the Annex to this report). Members of the Working Party noted that although some progress had been made, most items in this Section of Annex A continued to be subject to import restrictions. They pointed out that this relative lack of progress and the long delay envisaged for the removal of these restrictions was particularly regrettable, since many of these products were important, or potentially important, to the export trade of less-developed countries, most of which were in dire need of increased foreign exchange earnings. Nor were increases in quotas a satisfactory substitute for full liberalization. Members of the Working Party felt that the removal of restrictions and discrimination on these products up to now and the programme for future liberalization fell far short of the progress which the Federal Republic could reasonably be expected to make. Concern was expressed that there was considerable discrimination in providing access to markets for these products. In their view the authorities of the Federal Republic should reconsider their import policy with respect to these items with a view to ensuring the elimination of remaining restrictions and discrimination before the expiry of the waiver decision, and should submit to the CONTRACTING PARTIES an accelerated programme of liberalization.

5. The representative of the Federal Republic referred to the recent discussions under the aegis of GATT of problems relating to the cotton textile trade and the "Arrangements" agreed to by the interested governments. Members of the Working Party pointed out that efforts within the framework of GATT to make multilateral arrangements in international trade in cotton textiles should not be regarded as a reason for delaying action by individual governments to remove restrictions on textile imports, including the restrictions applied by Germany under the waiver. The "Arrangements regarding International Trade in Cotton Textiles", rather than reducing the need for action to dismantle restrictions, had been made precisely in order to provide additional scope for the liberalization of imports.

6. The representative of the Federal Republic of Germany stated that there remained altogether only twenty industrial products subject to restrictions. These restrictions would be removed as soon as it was possible to do so. Pending their removal, the Government, in consultation with the principally interested countries, had established a programme for progressively enlarging quotas for most of these products, many of which presented particular problems in international trade.

Annex B (Negative list of non-Market Law agricultural products)

7. With respect to items included in Annex B, the Decision of 30 May 1959 provides that the Federal Republic should keep the restrictions on these products under constant review and should 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. The Working Party noted that since the last consultation five items, namely: starch, other than from cereals; certain food preparations containing cocoa; prepared deep-frozen spinach; preserved peaches; fruit salads and fruit cocktail had been deleted from the restricted list. Members of the Working Party welcomed this step, but expressed disappointment at the very limited progress so far made in the liberalization of products included in Annex B. In view of the undertaking given by the Federal Government, contracting parties were entitled to expect significant progress in the removal of these restrictions. Furthermore, the decision precluded all discrimination, and it was a matter of concern therefore that import liberalization for certain types of cheese, casein and lucerne had up to now not been extended to non-OEEC countries.

8. Members of the Working Party pointed out that as a result of this discriminatory treatment, imports of hard cheese from overseas countries, for example, had either declined or in one instance had even ceased, although some of these exporting countries were among the most efficient cheese producers. On the other hand, imports from certain European countries, particularly EEC countries, had increased considerably, in one instance from a mere DM. 256,000 in 1956 to DM. 5.4 million in 1960.

9. The representative of the Federal Republic replied that the liberalization of cheese imports from OEEC countries was possible only because of the existence of agreements on minimum export prices, which eliminated the threat of disruptive inflows of cheese benefiting from production or export subsidies. The restriction of imports from overseas sources had been maintained in order to enable countries having a traditional interest in the German market to maintain their share. That non-OEEC countries were not denied their fair share might be seen from the fact that quotas were available to them. There was, in 1960, for example, a quota of DM. 3 million for hard cheese imports from Australia, New Zealand and South Africa.

10. Members of the Working Party pointed out that the obligations of the Federal Republic under the waiver were not conditional on the existence of arrangements regarding minimum export prices, and that some of the countries excluded from these liberalization measures were among the most efficient producers of dairy products and applied no subsidies of any kind. A quota of DM. 3 million to be shared among three countries, all of which had an important export interest in cheese, could hardly be considered equitable when total imports of hard cheese in 1960 into the Federal Republic had amounted to DM. 23 million. The representative of the Federal Republic of Germany explained that the figure of DM. 23 million covered all types of hard cheese, while the three countries named above normally produced only Cheddar or Chester cheeses. Total German imports of these particular types were only a small proportion of the total imports of cheese.

1 The Liberalization applies to the following items:
  ex 11.06 50; ex 18.06 90; ex 20.02 59; 20.06 74; ex 20.06 79.

2 Items 04.04 11, 16 and 60; 35.01.11; and 12.10 95 ex respectively.
11. In discussing the import arrangements for apples and pears, members of the Working Party pointed out that quotas were often of too short a validity and were often set for specified particular varieties not usually exported by some of the countries to which the quotas were nominally available. One member of the Working Party, referring to a recent specific tender published by the Federal Republic, stated that in addition to failing to admit comparable varieties from all suppliers, the Federal Republic did not give all suppliers equivalent notice of import tenders and imposed price cut-offs that were higher for imports from some suppliers than others before embargoing imports. As a result, some countries which had a traditional interest in the German market could not count on maintaining a reasonable and steady share in the market, while total imports of those products into the Federal Republic had shown a continuous increase over the years 1958 to 1960. While such imports from certain overseas countries declined, imports from some EEC countries had shown a very remarkable increase. These members of the Working Party urged that the Federal Republic eliminate all elements of discrimination, including that resulting from the present quota system, and remove the import restrictions at the earliest possible time.

12. The representative of the Federal Republic explained that every effort was being made to avoid discriminatory effects in the administration of import controls. There were, for example, special provisions regarding cut-off dates for imports from overseas countries. An additional quota for imports of apples from the dollar area had recently been established and, as far as practicable, identical product specifications would be used for quotas opened for different countries.

13. Members of the Working Party noted that while it was gratifying to know that the Federal authorities were not oblivious of the difficulties caused to overseas exporters by the present German licensing regulations, this knowledge was no compensation for the lack of action to improve that situation. The only satisfactory solution would be the liberalization of such imports from all sources. Failing that, the present import arrangements should be greatly improved to ensure adequate and fair access to all supplying countries.

14. Members of the Working Party expressed disappointment that among tinned fruits, progress in import liberalization in the past year had been limited to peaches, fruit cocktail and fruit salad. They expressed the hope that the Federal Republic would soon find it possible to liberalize the remaining tinned fruits and vegetables. The representative of the Federal Republic explained that remaining import restrictions on tinned fruits were still maintained at present in order to enable the disposal of domestically produced fruits. Imports had, however, been admitted to the fullest extent possible, as might be seen from the very considerable increase in these imports over the last few years. Aside from import facilities under bilateral quotas still in force, global quotas of a total value of DM. 18.5 million had been opened in 1961 for imports of the types of tinned fruits listed in Annex B, with the exception of tinned cherries. For this particular item, quotas had been established for the United States and Canada, amounting to DM. 1.8 million. As for tinned vegetables, global quotas of DM. 17 million had been opened for 1961.
15. The Working Party was informed that imports for exhibition at trade fairs were admitted under special arrangements outside the ordinary quota facilities. Members of the Working Party expressed the hope that pending the elimination of import restrictions, the special facilities for trade fairs would be expanded. They considered that restrictions affecting the flow of goods for that purpose were hardly in keeping with the spirit of the General Agreement.

16. In reply to questions concerning action to improve conditions of access to the German market, the representative of the Federal Republic noted that apart from the full liberalization of certain Annex B goods (see paragraph 7 above), the improvement in access might be seen from the increase in actual imports. Imports of the products listed in Annex B had increased by more than 44 per cent in 1960 as compared to 1958 from DM. 1,013 million in 1958 to DM. 1,463 million in 1960. Imports from non-EEC countries had increased from DM. 283 million in 1958 to DM. 393 million in 1960. This development should be seen against the liberalization measures which the Federal Government had carried out since 1958.

Annex C (Certain semi-manufactures)

17. Annex C covers import restrictions applied on four types of products, namely: woven fabrics of jute, bags of jute for packaging, imitation pearls and neat leather¹. Members of the Working Party recalled that with respect to these products, the Federal Republic of Germany undertook to eliminate restrictions within a period of five years ending in 1964 and to report annually on progress made in this regard. The representative of the Federal Republic stated that import liberalization with respect to these items was proceeding in a way consistent with the terms laid down in the Annex, notwithstanding certain difficulties which had arisen for certain domestic industries. Members of the Working Party welcomed the renewed assurance by the Federal Republic that liberalization of restrictions on these products would continue. They urged that in view of the particular importance of these items to certain less-developed countries, the Federal Republic further explore the possibility of accelerating their liberalization.

Annex D (Marketing Law products under de facto liberalization)

18. The Working Party noted that (a) imports of small dried fish (item 0515 10) had been liberalized on 1 January 1961; (b) imports of dried shrimps (item 0515 20), which had been scheduled for de facto liberalization by 1 January 1961, continued to be restricted; an agreement prolonging the previous quota arrangement had been concluded with the country principally interested in supplying this item to the Federal Republic of Germany; and (c) malt had been added early in 1961 to the list of products subject to the Marketing Laws but that imports of malt were granted de facto liberalization. This item might therefore be deemed to have been added to the list in Annex D. The representative of the Federal Republic confirmed that, with the exception of dried shrimps, no non-tariff measures affecting imports were applied on any of the products included in Annex D.

¹ The items covered by Annex C are: 5710; ex 6203-B; ex 7019; and ex 4102-B.
Annex E (Marketing Law negative list)

19. The Working Party noted that since the last consultation no item had been removed from this list, which included products subject to restrictions under the German Marketing Laws. The representative of the Federal Republic, however, stated that additional import facilities, usually in the form of global quotas, had been opened during the period under review for a number of these products, e.g. processed vegetable oils and margarine.

20. Members of the Working Party recalled that the Waiver had been granted on the understanding that the Federal Republic would keep the restrictions on Annex E products under constant review with the object of increasing access to the German market by the use of unlimited global tender arrangements, without restrictions as to quantity or source of supply. They stated that it was with concern and disappointment that they viewed the complete lack of progress in moving towards de facto import liberalization for the products included in Annex E. This situation raised the serious question whether the Federal Republic of Germany intended to carry out its obligations laid down in the Decision of 1959. Members of the Working Party noted that in granting the Waiver the CONTRACTING PARTIES had noted that most contracting parties did not accept the contention by the Federal Government that it was entitled to maintain restrictions on imports of products specified in the Marketing Laws. The representative of the Federal Republic explained that the position of his Government with respect to the application of the Marketing Laws which had been described in detail on earlier occasions, had not changed.

Agricultural products in general (Annex E or Annex B)

21. Members of the Working Party expressed serious concern about the extent to which trade in agricultural products continued to be subject to restrictions and regulations. One member of the Working Party pointed out in this context that on the basis of production figures for recent years about 74 per cent of German agricultural production appeared to be subject to regulation under the Marketing Laws and a further 12 per cent to other forms of government regulation and intervention. Also, trade data showed that about 50 per cent of total agricultural imports were subject to non-tariff measures and about two thirds of actual agricultural imports consisted of products which did not compete with German domestic production. At the same time, expansion of agricultural production was encouraged by a price policy which was made possible only by the severe restrictions on agricultural imports. Production of many agricultural items had responded to the stimulus of high prices because of the shelter against outside competition and, according to authoritative estimates, further increases in production were expected. This development was naturally a matter of concern to agricultural exporting countries, particularly as the Federal Republic seemed to regard imports of agricultural products as no more than a means to fill possible gaps between domestic production and consumption.

22. In reply, the representative of the Federal Republic emphasized that his Government’s agricultural policy was not aimed at achieving autarchy or giving imports a residual rôle. Every effort was made by the Government to administer the controls in a manner which, to the full extent permitted by existing legislation, took account of the interests of exporting countries.
23. With regard to the trend of agricultural production in Germany, the representative of the Federal Republic of Germany explained that increased efficiency in Germany, as in most other countries, had led to an increase in production of many agricultural products. In Germany, unlike in most other countries, however, the increase in production on the whole had lagged behind increases in consumption. The increase in production of cereals was not matched by increases in consumption, since consumption of cereals was declining as a result of a shift to other types of food, consequent upon the increase in personal income. Notwithstanding increases in production, the share of local products in total food consumption had diminished in the past decade and, at a level of approximately 66 per cent in 1960, was considerably below the pre-war level of about 79 per cent. In the case of increase in per capita consumption of such items as meat, dairy products, fruits and vegetables, import opportunities for many of these items had been increased. Total import outlays in the food sector (excluding coffee and tobacco) had reached a level of DM. 9,922 million in 1960, compared to DM. 9,469 million in 1959, and about DM. 8,106 million in 1955. These figures and certain recent developments, in the opinion of the representative of the Federal Republic, showed that the Federal Republic would most likely continue to be one of the world's leading importers of agricultural products.

24. Members of the Working Party noted that total imports of products included in Annexes D and E seemed to have slightly declined in 1960 as compared to 1959, that the number of products which had registered a decrease was larger than that of products showing an increase, and that imports of cereals seemed to have declined by almost 50 per cent. They felt that a judgment on the access to the German market would have been facilitated if data for 1961 were also available. Failing this, it would be useful to have an indication of the magnitude of the imports envisaged under the import programme for 1961, and possibly also for 1962. The representative of the Federal Republic noted that movements in agricultural trade, of course, were the subject of influence of many factors, such as weather. In the case of coarse grains, for example, the decrease in imports reflected the larger domestic output in 1960. On the other hand, imports of butter in 1960 had remained at about the same level as in 1959, a year in which import requirements had been particularly large as a result of reduced milk production due to the drought in the spring and summer of 1959. Imports of meat which had shown a rising tendency in past years had further increased in 1961. In the first six months of 1961, meat imports had been about 10,000 tons higher than in the corresponding period of 1960. As noted in the report submitted by the Federal Republic, imports of products subject to Marketing Laws in 1960, while slightly lower than in 1959, had nevertheless been about 30 per cent higher than in 1958.

25. In discussion of the licensing treatment for imports of meat which seemed to be highly discriminatory in many aspects, members of the Working Party called attention particularly to the regime applying to chilled meats and canned variety meats. They pointed out that beef continued to be in relatively short supply on the international market, and that consequently there was little likelihood of imports increasing at such a rate as to cause disturbances to the German market. The liberalization of meat and meat products, de facto if it must be, could not conceivably be harmful to the German economy.
26. Members of the Working Party noted that, while admittedly the German market for mutton and lamb was likely to remain limited in the foreseeable future, development of this market had been effectively prevented by the lack of access for these products; interested exporting countries had not been given a larger share in the German market, or any assurance of continued access such as to make it worth while for them to undertake sales promotion.

27. The representative of the Federal Republic explained that, although a large proportion of the increase in meat imports was accounted for by imports of live animals, mainly from countries in Western Europe, there were no discriminatory restrictions on imports of frozen meat. Chilled meats were generally not imported from overseas countries for sanitary reasons and there was no intention of administering licensing controls in a way giving preference to particular varieties of meat or to imports from particular sources. Additional import facilities had been established for mutton and lamb in the past year and imports, while still small in comparison to total meat imports, were significantly increasing.

28. Members of the Working Party expressed gratification for the policy pursued by the Federal Republic of Germany in regard to butter. There was no attempt to dispose of the large accumulated stocks of butter abroad. Other members of the Working Party felt, however, that commendable as this restraint was, the continued limitation of access to the German market was nonetheless a factor contributing to the pressure on the world market. Opportunities for foreign participation in the market continued to be limited not only by the size of the quotas granted, but also by the administration of these quotas. These members of the Working Party felt that it should be possible for the authorities of the Federal Republic to give longer notice of quotas, to establish larger quotas each time rather than fragmentary quotas at irregular intervals, and to grant these for longer periods of validity. This would be of assistance particularly to distant overseas suppliers of butter.

29. These members of the Working Party also expressed concern about the effect of internal price policies for butter in the Federal Republic on the level of consumption and production, and consequently on market opportunities for traditional dairy exporting countries. They enquired to what extent the authorities of the Federal Republic had implemented the recommendations which had been made by the OEEC Deputy Ministers of Agriculture concerning measures by national governments for the encouragement of consumption of dairy products. The representative of the Federal Republic explained that efforts had been made by the German Government to encourage butter consumption and those were beginning to show some results. Butter consumption had shown some increase, despite increasing competition from margarine, and had reached a level of approximately 10 kg. per capita per year. In the second half of 1961, import quotas for 30,000 tons of butter had been opened.
30. In reply to questions, the representative of the Federal Republic stated that imports of barley, including brewery barley, were permitted under global quotas and that no acreage restriction was or could be applied in the Federal Republic, except in vine growing, for which special rules were in force.

31. In response to a question concerning the proportion of locally produced wheat to be used in the coming season under the mixing regulations in force in Germany, the representative of the Federal Republic stated that it was not at present possible to indicate what proportion of domestically produced wheat millers would be required to use. The minimum proportion of domestic wheat to be used by millers, which had been fixed at 75 per cent for the 1961/62 season was considerably lower than in 1939, when the proportion had been 95 per cent.

32. Members of the Working Party noted with concern the extent to which certain agricultural imports continued to be subject to bilateral quotas, some of which appeared to have been granted in exchange for import facilities for German industrial products in the partner countries. The representative of the Federal Republic replied that it was not the policy of his Government to link the opening of any import facilities in the Federal Republic to the granting of special facilities for German exports; in fact such arrangements were not permitted under German law. Only in exceptional circumstances, such as very special conditions under foreign aid programmes, might arrangements of this type be made. Such consultations as had been held with supplying countries to the German market had aimed at reaching agreements with those countries on the allocation of quotas so as to fulfill the conditions laid down in paragraph 2(c) of the Decision and Article XIII of the General Agreement.

General Observations

33. Members of the Working Party considered that, in view of the short time left before the expiry of the Decision in 1962, it was particularly important that at the present consultation there should be an assessment of the operation of the Waiver and of the progress achieved by the Federal Republic of Germany in relaxing and eliminating restrictions covered by the Waiver. Members of the Working Party noted that, in fulfilment of its obligations under the Waiver, the Federal Republic had eliminated restrictions on the items included in Sections A to C of Annex A, with a few exceptions. With respect to items included in Section D of Annex A, some progress had also been made in removing the restrictions and discrimination, a timetable for the liberalization of some of the other products had been adopted, but no date had been set up for the liberalization of the remaining items. Members of the Working Party welcomed the progress so far made, but expressed concern that some of the liberalization measures envisaged in the liberalization programme were not to be effective until 1965 and that even after that date a number of imports would remain subject to restrictions. The lack of progress with respect to these items was particularly disappointing in view of the importance of many of these products to the export
trade of certain less-developed countries. It was pointed out that any restrictions on those items maintained after the expiry of the waiver would be inconsistent with Article XI of the General Agreement. Members of the Working Party urged the Federal Government to review the progress made to date and to take steps to ensure the elimination of these restrictions before the expiry of the waiver.

34. With respect to the liberalization programme established for items included in Annex C to the Decision, members of the Working Party expressed the hope that the programme would be carried out so that all the restrictions would be removed before the end of May 1964; the German Government should constantly explore the possibility of accelerating the programme.

35. Members of the Working Party regretted the very limited progress that had been made in eliminating restrictions on products included in Annex B and the continued existence of discriminatory restrictions on a number of these products. The lack of progress in liberalizing these products raised serious doubts as to the likelihood of these restrictions being removed in accordance with the terms of the Waiver. With respect to items included in Annex E, members of the Working Party noted that, notwithstanding the obligation undertaken by the Federal Republic under the Waiver, no progress had so far been made in liberalizing these imports or in transferring them to Annex D. The concern over this lack of progress was reinforced by the effect which the continued maintenance of these restrictions was bound to have on the level of domestic production and consequently on import needs.

36. Members of the Working Party stressed the view that progress in the elimination of import restrictions should not be affected by any regional commitments of the Federal Republic. These restrictions were inconsistent with the GATT and membership in a customs union could provide no excuse or justification of their retention. The representative of the Federal Republic pointed out that as an important trading nation the Federal Republic had a vital interest in maintaining traditional trade with all contracting parties.

37. Members of the Working Party noted that although agricultural imports had shown some increase in 1960, the participation by different countries in the increase had varied considerably. Continued discrimination and the complex licensing arrangements continued to have a detrimental effect on equal trading opportunities for all contracting parties.

38. Pointing to the widespread agricultural protectionism one member of the Working Party pointed out that the Federal Republic was one of the few countries which in recent years had made considerable progress in the relaxation or removal of import restrictions on agricultural products.
39. Members of the Working Party stressed that the Waiver had been granted to the Federal Republic in order to permit gradual adjustment to be made in the German economy so as to enable increased access to the German market. Where restrictions could not be removed immediately, increased access to the German market would contribute to a better balance of world trade and would be in the interest of the Federal Republic itself as an important trading nation.

40. Members of the Working Party noted that while some progress had been made in the elimination or relaxation of restrictions, a great deal remained to be done. In order that the Government of the Federal Republic might have another opportunity to indicate to the CONTRACTING PARTIES the measures it proposes to take to eliminate restrictions before the Waiver expired, it was proposed that the Council should be asked, when it meets in the spring of 1962, to conduct a preliminary review of the situation. For this purpose the Federal Republic should be requested to submit an interim report by the beginning of April 1962 on further progress and on specific measures the Federal Republic proposed to take before the expiry of the Waiver together with relevant data on imports. In this context one member of the Working Party pointed out, however, that in accordance with its terms of reference the Working Party was only called upon to carry out the consultation with the Government of the Federal Republic in accordance with the provisions under the Waiver Decision.

41. The representative of Australia advised the Working Party that direct discussions were being held between his Government and the Federal Republic regarding the level of access to the German market for Australian products and that his Government reserved the right to revert to the question at the next session of the Council or of the CONTRACTING PARTIES if the need should arise.

42. The representative of the Federal Republic stated that his Government was making every effort to liberalize imports. Some considerable progress had already been achieved and further liberalization was envisaged. The restrictions which were still being maintained were either required by existing legislation or necessitated by abnormal market conditions arising from the prevalence of measures of subsidization and import restrictions in foreign countries. The breadth of these problems had been amply illustrated by the findings of Committee II, and other bodies of the GATT. While the Federal Republic would strive to work towards the removal of the remaining restrictions, it was obvious that, for many of the products concerned, a solution had to be found on a multilateral basis.

43. The representative of the Federal Republic stated that he would bring the views and suggestions expressed by members of the Working Party to the attention of his Government.

*Annex: List of products mentioned in the Annexes to the Decision of 30 May 1959 which are still subject to import restrictions

*Annex to be distributed separately.