

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES
Thirteenth Session

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SUMMARY RECORD OF THE TWELFTH MEETING

Held at the Palais des Nations, Geneva,
on Monday, 3 November 1958, at 2.30 p.m.

Chairman: Mr. L.K. JHA (India)

- Subjects discussed:
1. Expiry of the "Hard-Core" Decision of 5 March 1955
 2. Peruvian Import Charges
 3. Restrictive Business Practices
 4. Waiver for Australia (Papua-New Guinea)
 5. Waiver for Franco-German Trade with the Saar
 6. Italian Measures in favour of Domestic Production of Ships' Plates
 7. Freedom of Contract in Transport Insurance

1. Expiration of the "Hard-Core" Decision of 5 March 1955

The CHAIRMAN recalled the terms of the Decision of 5 March 1955 relating to problems raised for contracting parties in eliminating import restrictions maintained during a period of balance-of-payments difficulties. By this Decision the CONTRACTING PARTIES had recognized that "some transitional measure of protection by means of quantitative restrictions may be required for a limited period to enable an industry having received incidental protection from those restrictions which were maintained during a period of balance-of-payments difficulties to adjust itself to the situation which would be created by removal of those restrictions". A contracting party wishing to obtain the concurrence of the CONTRACTING PARTIES in the maintenance of certain restrictions during a transitional period was required to submit its request not later than 31 December 1957. But it was envisaged that the CONTRACTING PARTIES might extend this time-limit by fixing a later date. At the Twelfth Session, the CONTRACTING PARTIES had agreed that they would receive such requests up to 31 December 1958 and that they would review these provisions at this Session.

Mr. GUNDELACH (Denmark) referred to the discussion of this item at the Twelfth Session when the objections of the Danish Government to an extension of the time-limit for the submission of applications had been expounded in detail. It was only on the understanding that a review of the hard-core procedure would be made at the Thirteenth Session that his Government had agreed to an extension.

As the CONTRACTING PARTIES might take, at this Session, major decisions on questions which had a bearing on the difficulties which the hard-core procedure attempted to alleviate, his Government would be prepared to accept a further extension of the time-limit and a deferment of the review.

Miss SEAMAN (United Kingdom), Mr. CORKERY (Australia) and Mr. BEINOGLU (Greece) supported the Danish proposal that the time-limit be extended for one year.

Mr. PAPPANO (United States) stated that, at a time when an increasing number of countries were nearing the status where import restrictions for balance-of-payments reasons would no longer be warranted, the hard-core procedure could be particularly useful. His delegation was therefore prepared to agree on an extension of the time-limit for twelve months.

Mr. TREU (Austria), while reserving his Government's position on the hard-core waiver itself, also supported the Danish proposal.

Mr. SCHWARZMANN (Canada) said that his Government had hoped that by this time it would have been possible for the contracting parties still resorting to Article XII to eliminate their import restrictions without having recourse to transitional procedures. However, as certain countries were still, to some extent, experiencing balance-of-payments difficulties, his delegation would not object to a further extension of the time-limit for a period of twelve months.

The CHAIRMAN noted that there was general support for the Danish proposal to prolong for one year the period during which requests for concurrence pursuant to the "hard-core" Decision could be submitted, and to undertake a review of the provisions of the Decision in 1959. He proposed that the Executive Secretary be instructed to prepare a draft decision for consideration by the CONTRACTING PARTIES.

The CONTRACTING PARTIES agreed to this procedure.

2. Peruvian Import Charges

The CHAIRMAN recalled that the Government of Peru had informed the CONTRACTING PARTIES in May that in view of certain economic and financial difficulties it intended to impose additional charges on imports and that in its opinion these charges would also have to apply to the items on which concessions had been granted in its GATT Schedule. The Intersessional Committee had met to consider this question and had made a Recommendation to the Government of Peru (L/876) expressing the hope that it would reconsider the proposed measures with a view to levying the supplementary charges in a manner consistent with the GATT, but also recommending to the CONTRACTING PARTIES that the situation should be examined at the Thirteenth Session "with a view to arriving at a generally acceptable settlement". The Intersessional Committee had also asked the Government of Peru to submit a detailed report to the Session. This report had been distributed in document L/898.

Mr. de la FUENTE (Peru) considered that the issue under consideration raised a fundamental question, namely whether the General Agreement was flexible enough to permit a country with a vulnerable economy to tackle a serious emergency by means not involving recourse to quantitative import restrictions. His Government which intended to abide by its obligations under the Agreement had approached the problem having in view the interests of contracting parties and of the Agreement itself.

As recognized by both the International Monetary Fund and several contracting parties at the meeting of the Intersessional Committee in June, Peru was faced with a severe deterioration in its balance of payments. The liberal trade and exchange policy traditionally followed by Peru and the example set by other countries in recent years had induced the Peruvian Government to resort to corrective monetary and fiscal policies rather than to measures of direct restriction of imports. Institutional factors and the very nature of the economic situation made it necessary not to limit corrective measures to the internal economy but also temporarily to increase import charges with a view to reducing the demand for imports. This would assist in achieving monetary equilibrium as advised by the International Monetary Fund, and also exert a direct influence to correct the external disequilibrium. It could be hoped that an eventual improvement in Peru's export prices and the achievement of a better internal balance would reduce and eliminate the need for these surcharges. The Peruvian Government did not believe that it would be possible to attempt to forecast a precise date on which the import surcharges could be withdrawn.

In the light of the discussion in the Intersessional Committee it seemed that the CONTRACTING PARTIES would not have hesitated to recognize Peru's right to impose quantitative restrictions under Article XII. The question which then arose was whether the General Agreement was flexible enough to allow for a situation in which a country which was entitled to impose restrictions under Article XII resorted instead to a less restrictive and probably more temporary measure to cope with its difficulties. At the Intersessional Committee meeting, some representatives had thought that increases in bound tariff rates should not be permitted under the terms of Article XII lest an undesirable precedent be set. Although the Peruvian Government did not share this view and believed that such an increase would be consistent with the special measures envisaged by Article XII in a situation of acute balance-of-payments difficulties, it would not insist that a decision be taken on the procedural aspect of the problem if such a course were to delay the adoption of an urgently needed solution.

Mr. de la Fuente urged the CONTRACTING PARTIES to consider whether the proposed course was not the best in the circumstances. While aware of the importance of safeguarding the principle of not unilaterally modifying bound duties, the Peruvian Government proposed that a contracting party be permitted to raise such duties when facing a serious balance-of-payments crisis such as that experienced by Peru, and asked the CONTRACTING PARTIES to concur in the imposition of surcharges because this course was the least detrimental to the interests of other contracting parties.

As suggested at the meeting of the Intersessional Committee, the Peruvian Government had given serious consideration to an alternative course to raise revenue and to restrict demand, which would be more in conformity with the requirements of the GATT. After careful consideration, it had concluded that the only practical course was to impose temporary import surcharges as proposed earlier. While it would perhaps have been possible to impose internal excise taxes bearing equally on domestic and foreign goods, such taxes would, in the present circumstances, have involved no greater conformity with the spirit of the GATT than the action proposed. The interest of the CONTRACTING PARTIES was not to solve problems by devising methods which placed formal compliance with the letter of the Agreement above compliance with its spirit. Moreover, the imposition of excise taxes would have created particular problems of implementation in Peru. The Report "Commercial Policy 1957" made several references to the institution of import surcharges in a number of countries and the institution of such charges by Peru could not be considered as a novel method for dealing with temporary balance-of-payments difficulties. In order to be fully effective, it had been necessary to apply the measure also to the numerous items bound under GATT. Although this action involved an apparent contradiction with the text of the Agreement, it was fully consistent with the spirit of the Agreement and completely appropriate to the special circumstances which obtained at present. As an alternative to quantitative restrictions which might be difficult to remove once they were introduced, temporary import surcharges were a more adequate emergency measure in the special circumstances of the Peruvian economy. It was for the CONTRACTING PARTIES to decide whether a better solution could be found under provisions other than those of Article XII.

The Government of Peru hoped that contracting parties would recognize the importance and acuteness of the problem and the necessity of finding a satisfactory solution. It was prepared to give the most favourable consideration to suggestions any contracting party might wish to make in connexion with any special problem which the import surcharges might create for its exporters. It must be understood, however, that in such discussion due account would have to be given to Peru's urgent need for temporary measures to restore equilibrium in its external payments.

In the discussion that followed sympathy and understanding were expressed for the grave difficulties with which Peru was confronted and also appreciation of the Government's desire to avoid restrictive quantitative measures and to continue to adhere to liberal trade and exchange policies.

Dr. VARGAS-GOMEZ (Cuba) said that circumstances which had compelled the Peruvian Government temporarily to impose substantial import surcharges reflected the recurring problems of most under-developed countries which depended for their external income and internal stability on the export of a few commodities. The increase in the rates of duty of the Peruvian tariff was evidently less restrictive of trade than a general recourse to quantitative restrictions. In the view of the Cuban Government, the CONTRACTING PARTIES, taking into account the views expressed by the Fund, should welcome the determination of Peru not to revert to trade restrictions to overcome the present balance-of-payments difficulties. In this connexion it had to be

borne in mind that the programme of stabilization which had been adopted not only required the Government to reduce expenditure but also to increase income substantially. At the meeting of the Intersessional Committee in June the representative of the Fund had said:

"... The Fund was of the opinion that substantially increased revenues had been and were essential to the success of Peru's stabilization programme and to the protection of the country's reserves and exchange rate. Furthermore, the Fund was satisfied that the increase in revenue likely to result from the various measures proposed to the Fund by Peru was not more than was consistent with the success of that programme."

These arguments were of sufficient weight to justify the temporary action already taken by Peru. The CONTRACTING PARTIES had before them a clear case of a country for which a reduction of exports meant not only a severe decline in external reserves but also a substantial reduction in national income, in employment and in standard of living.

In concluding, Dr. Vargas Gomez hoped that the CONTRACTING PARTIES, taking account of these considerations, would find a satisfactory solution to help the Peruvian Government in its present plight, especially in view of the stated intention of the Peruvian Government to observe its obligations under the Agreement as far as possible. A proper procedure should be evolved to conciliate the Peruvian Government's action with the relevant provisions of the Agreement.

Mr. PAPPANO (United States) was fully appreciative of the adverse situation with which the Peruvian Government was confronted and considered that it should receive the sympathetic attention of the CONTRACTING PARTIES at the present Session. When considering this matter in June, the Intersessional Committee had concluded that consultations under Article XII would not be appropriate and that the GATT did not permit contracting parties unilaterally to increase bound rates of duty to meet balance-of-payments difficulties. The Committee had recommended that the CONTRACTING PARTIES examine the situation with a view to arriving at a generally acceptable settlement. He suggested that consideration of this question might be expedited if it were referred to a small group which could examine the problem in detail and report with a recommended solution to the CONTRACTING PARTIES.

Mr. BARBOSA DA SILVA (Brazil) endorsed the United States proposal. His delegation had had an opportunity to examine the point of view put forward by the Peruvian Government and was impressed by the fact that the Peruvian Government was anxious not to modify its import regulations and to continue its liberal import policies. However, his delegation had difficulty in accepting an interpretation of Article XII which would cover the case and believed that the CONTRACTING PARTIES should maintain consistency of principles.

Mr. GARCIA-OLDINI (Chile) said that if the Peruvian Government had followed the traditional course it would, after imposing quantitative restrictions, have proposed to enter into consultations in accordance with the provisions of

Article XII. After examining the question in a working party the CONTRACTING PARTIES would no doubt have agreed that Peru was entitled to avail itself of the provisions of that Article and would probably have authorized the Peruvian Government to levy temporary import charges as proposed. Instead the Government had preferred to take action immediately. It could of course be objected that the unilateral raising of bound rates of duty to cope with balance-of-payments difficulties was not in harmony with the Agreement and with the text of Article XII and perhaps even with the spirit in which that Article had been drafted. In the view of Mr. Oldini, the philosophy of Article XII was that other corrective measures were to be preferred to quantitative restrictions. The task therefore of the CONTRACTING PARTIES was to make a choice between the application of the provision of the Agreement taken literally or in their spirit. A small group could study the question and perhaps find an acceptable solution by drawing on the provisions of Articles XXV and XII. However, in any solution the spirit of Article XII should predominate and the obligations therefore which might be imposed on the Peruvian Government should not go beyond those which are provided in that Article.

Mr. EMMEL (Federal Republic of Germany) appreciated that the Peruvian Government had taken action which showed a great sense of understanding of the spirit of the General Agreement. His delegation was in a position to agree with the imposition of additional import charges and supported the United States proposal. He hoped that the group would be successful in finding an acceptable solution.

Mr. SWAMINATHAN (India) said that his Government was prepared to do its utmost within the framework of the Agreement to meet the Peruvian request that ways and means be found to solve the difficulties. His delegation considered, however, that Article XII was not perhaps the most appropriate to deal with this question. The representative of Chile had suggested that the possibilities of the waiver provisions be examined. The questions raised were complicated because they included a unilateral increase in bound duties, discrimination in favour of bilaterally negotiated agreements and an increase in the margin of preference permissible under Annex E. He therefore felt that the matter required careful examination and supported the suggestion to appoint a small group which would no doubt find a way to reconcile the difficulties of Peru with the spirit and the provisions of the General Agreement.

Mr. HAGEN (Sweden) seconded the United States proposal and hoped that a solution could be found which would not prejudice the principles of the Agreement.

Mr. GUNDELACH (Denmark), while noting that the action taken by the Peruvian Government constituted a deviation from the provisions of the Agreement, was of the opinion that the remedy which had been chosen had certain merits in the circumstances. He suggested that sympathetic consideration be given to finding a way to settle the difficulties faced by the Peruvian Government.

Mr. SCHWARZMANN (Canada) said that his delegation appreciated that some of the causes of Peru's present plight were beyond the control of the Peruvian Government. Like other contracting parties, Canada was genuinely

concerned about some of the implications of the procedure which might be adopted to settle the problem under consideration. The Peruvian delegation itself would certainly wish to ensure that any such procedure would not prejudice the principles of the General Agreement. He therefore favoured the appointment of a special group.

Mr. BEINOGLU (Greece) associated himself with the views which had been expressed and supported the proposal to establish a small group to consider the matter.

Mr. BRONDI (Uruguay) and Mr. PARADAS (Dominican Republic) were in favour of appointing a group which should examine the issue having full regard to Peru's acute difficulties.

Mr. JARDINE (United Kingdom) recognized that the Peruvian Government was faced with severe difficulties which would have justified the imposition of quantitative restrictions to safeguard the balance of payments. Instead it had taken another course. There was some force in the argument that import charges such as had been imposed were less disruptive of trade than import restrictions. However, exporting countries interested in the Peruvian market were faced with tariff barriers which in spite of GATT bindings had been greatly increased. He agreed that the matter should be referred to a small group.

In response to the invitation made by the Peruvian representative in his statement, Mr. Jardine asked him to consider in due course a number of points which were of interest to certain countries, including the United Kingdom, which were affected by the surcharges. While expressing gratification that the Peruvian Government had declared itself prepared to agree on a procedure which would provide for a reduction of the charges as the balance of payments improved and for an eventual elimination when the payments difficulties disappeared, he requested the Peruvian representative to consider whether he would not agree that as long as Peru was unfortunately unable to observe the tariff bindings which it had negotiated with other contracting parties, the latter should have the right, in accordance with the principles of Article XXVIII, to suspend the tariff bindings which they had accorded to Peru. It was not that the United Kingdom wished to treat imports from Peru less favourably than at present, but it was embarrassing for a government to find that it had lost, even if only temporarily, the tariff concessions it had obtained in negotiations, while still being obliged to maintain the favourable import treatment it had accorded. He hoped that the Peruvian delegation would consider these suggestions in the same sympathetic spirit as that in which they were made.

The CHAIRMAN, in summing up, said that there had been a general recognition of the fact, indeed by the Peruvian Government itself, that the proposed course of action was not strictly compatible with the provisions of the Agreement. It had been pointed out that the form of remedy which Peru was seeking to alleviate its balance-of-payments difficulties was less disruptive of trade than the remedy which it was authorized to adopt under Article XII and which made no distinction between bound and unbound rates of duty. The proposal by the United States representative to entrust the task of finding a procedural and legal solution for the problem to a small group had received wholehearted support. The Chairman accordingly proposed that the representatives of the delegations of Brazil, Canada, Cuba, the Federal Republic of Germany, Peru, Sweden, the United Kingdom and the United States should constitute such a group.

3. Restrictive Business Practices (MGT/75/58, L/872, L/893 and Add.1)

The CHAIRMAN reminded the CONTRACTING PARTIES that at the Twelfth Session the secretariat had been instructed to collect and analyse documentation on this subject. This had been done in the memorandum distributed in document MGT/75/58.

Mr. THAGAARD (Norway) recalled that at the Twelfth Session his delegation had proposed the appointment of a working party to make recommendations on control through the GATT of restrictive business practices in international trade. In order to reach a decision at this Session about further examination of the subject the Norwegian delegation had made certain proposals (contained in documents L/893 and Add.1). It was not expected that the CONTRACTING PARTIES would take up for consideration at this Session the question of whether they should undertake controlling functions in the field of restrictive business practices. The CONTRACTING PARTIES had sufficient general documentation on the subject, but required clarification of the problems associated with the question of whether and how they should undertake control. It would be clearly outside the competence of the GATT to interfere in domestic policies, and control would be limited to restrictive practices in international trade. A corresponding distinction should be made between internal restrictive practices within "common markets" and restrictive practices applied in trade with outside countries. In this connexion Mr. Thagaard drew the attention of the CONTRACTING PARTIES to Articles 85-89 of the Treaty of Rome concerning private restrictive business practices. The implementation of these articles was an internal matter to be decided on by the authorities which the Rome Treaty had established.

Clearly GATT could not exercise control of such practices when they affected countries not parties to the General Agreement. It was proposed that a group of experts should be appointed to examine the question of how GATT control could be carried out. They would be asked to report at the end of 1959 in order that the item might appear on the agenda for a session in 1960. The Norwegian delegation was of the opinion that it would be wise to abstain from proposing too complicated a system of control, although the group of experts would be free to formulate their recommendations within their terms of reference. The primary objective was to lay a foundation for effective counteraction for the really abusive restrictive practices in international trade.

Mr. Thagaard concluded by saying that the establishment of such a group aimed at providing the necessary basis for further examination of the problem by the CONTRACTING PARTIES and did not imply a priori recognition by contracting parties of the necessity or manner of control.

Mr. GUNDELACH (Denmark), Mr. HAGEN (Sweden), Mr. STEYN (Union of South Africa), Dr. VARGAS GOMEZ (Cuba), Mr. MUNKKI (Finland), Mr. TREU (Austria), Mr. SWAMINATHAN (India), Mr. BAIG (Pakistan), Mr. CUHRUK (Turkey), Mr. TENNEKON (Ceylon), Mr. BRONDI (Uruguay) and Mr. SCHWARZMANN (Canada) supported the Norwegian proposal and were of the opinion that GATT was the appropriate organization to deal with the matter. The Danish delegation attached great importance to the creation of an international instrument for dealing with monopolies, cartels, trusts and other combines which frustrated the free play

of international trade between countries. Mr. Hagen reminded contracting parties that the acts of international cartels and trusts could hamper the expansion of world trade, thus counteracting the effects of tariff reduction and of other action to liberalize trade. Dr. Vargas Gomez expressed regret that the CONTRACTING PARTIES were not yet prepared to deal with control of unfair restrictive practices which hindered trade. Since domestic reaction was so strong in most countries he found it difficult to understand why there was so little reaction on an international scale. He felt that the Report would facilitate agreement among the contracting parties on practical measures to be adopted. Mr. Munkki recalled that several countries had domestic legislation to deal with this subject but that this was not sufficient to cope with restrictive business practices in international trade. Mr. Baig said that he also represented an under-developed country. He was aware of the damage to the free flow of trade inherent in restrictive business practices and was conscious of the fact that integration in many areas could extend their scope. Mr. Cuhruk deemed that sufficient work had already been done on this problem. In view of the fact that the competence of GATT was beyond question there was no reason why action should not be taken. Mr. Schwarzmann realized the limitations of the proposal but his delegation was prepared to fall into line with the general consensus of opinion.

Mr. GARCIA-OLDINI (Chile) recalled that his delegation represented an under-developed country which did not have the means to subsidize its products nor to introduce restrictive practices. Hence their support for the proposals submitted by the Norwegian delegation. The Report had brought the subject to notice again for it showed the immense complexity of the problems involved and the difficulty there would be in solving them in a satisfactory manner. The extra time provided for in the Norwegian proposal would guarantee a thorough examination of the problem in order that on the completion of the work the contracting parties might take certain practical solutions.

Mr. PHILIP (France) was convinced that the problem of restrictive business practices in international trade merited the attention of the CONTRACTING PARTIES for they could frustrate action in other fields such as the lowering of tariffs or the abolition of quantitative restrictions. He felt, however, that it was unlikely that positive action could be taken since it meant combating powerful forces existing in each of the countries represented. He was personally acquainted with the subject since he had presented a similar plan to the Council of Europe and had seen it sink in the quagmires of procedure. It was necessary to have a permanent institution to deal with the subject and this institution should be supported by political authority. Although this was not yet the case on a world scale it was being attained at present in different regions. Experience had shown that a limited action could have a restricted though real effect through study, analysis and publicity, since cartels and international trusts cleared publicity above all. A good beginning had been made in the memorandum. Groups of experts could make concrete studies which would result in publicity and probable action. Consequently the French delegation supported the proposal to set up a group of experts to study the problem, taking the memorandum as a basis.

Mr. ELSON (Federal Republic of Germany) stated that his delegation had been instructed to ask that the matter be deferred, although it was clear that restrictive business practices were likely to hamper trade. In view of the statements of other delegations he wished to reserve his position.

Miss LOUGH (United Kingdom) stated that the position of her delegation was the same as last year. The United Kingdom did not consider it timely for the CONTRACTING PARTIES to undertake further study with the possibility of instituting control of restrictive business practices in international trade. That was not to say that the GATT Session was not the right place to initiate such a study at the appropriate time. Her Government still doubted whether the harm which such practices caused to international trade was as serious as some delegations suggested. Nothing in the memorandum detracted from this point of view. In fact most countries had adopted a pragmatic approach to the problem. It was not practical at present to draw up rules for action since national policies and experience varied and the memorandum confirmed that most national legislation was of a recent nature. Hence a delay was desirable in order to reach agreement on the objectives and machinery of control. As regards the new Norwegian proposal for setting up a group of experts rather than a working party, this seemed particularly unrealistic since the memorandum had shown the extent of recent studies. A group of experts would tend to produce a theoretically perfect scheme which would be unlikely to receive the ratification of some countries and therefore would be of little real value. Her delegation thought it premature for the CONTRACTING PARTIES to take action at the Thirteenth Session for the agenda was already over-loaded. She proposed, therefore, that the matter be deferred.

Mr. PAPPANO (United States) reminded the CONTRACTING PARTIES that the United States had for a long time opposed cartel restrictions in international trade and had taken steps in domestic law to remove those which had adverse effects on the foreign trade of the United States. He was, however, persuaded that a successful international agreement for the control of cartel practices, was not yet feasible. A measure of experience in the working of existing regional arrangements such as the OCECA, EEC, etc., was necessary. Hence, with the United Kingdom, the United States thought it would have been more realistic to postpone discussion to a future session, but his delegation was prepared to support the proposal for the establishment of a group of experts provided that there was an opportunity to discuss the terms of reference.

The CHAIRMAN commented on the wide measure of support which the proposals had obtained and suggested that the Norwegian delegation should consult with others as to any slight amendments that might be desired in the text of the draft Decision to establish a working party. The text could be formally approved at a subsequent meeting.

It was so agreed.

4. Waiver for Australia (Papua-New Guinea) (L/896)

The CHAIRMAN called on the representative of Australia to present his Government's report which had been distributed in document L/896.

Mr. CORKERY (Australia) introduced the Fifth Annual Report in conformity with the Decisions of the CONTRACTING PARTIES which permitted Australia to accord special customs treatment for products of the Trust Territory of Papua-New Guinea. Australia was required to report annually on measures taken under these decisions and on the effects of the measures taken on the trade of Papua and New Guinea and on the trade from all sources into Australia of the products affected. The report indicated action taken during the year and set out relevant information. The Australian delegation was prepared to make available additional information if required.

The CONTRACTING PARTIES took note of the Fifth Annual Report of the Australian Government on the Papua-New Guinea Waiver.

5. Waiver for Franco-German trade with the Saar (L/894, L/895)

The CHAIRMAN stated that the Governments of France and Germany had submitted their first annual reports under the Decision of 22 November 1957 and called on their representatives to present their Government's reports.

Mr. KLEIN (Federal Republic of Germany) reported that in application of the Waiver which the CONTRACTING PARTIES had granted in 1957, the Federal Republic of Germany had granted duty-free admission on goods originating in the Saar. This had been granted as a general rule although exceptions were to be found in the report (L/895). These exceptions were, firstly, products coming under the CEECA Treaty and secondly, the goods enumerated in Annex I of the report. It was thus a negative list which had to be included in these regulations. Furthermore, there were also goods which were duty-free but which were subject to fairly large quotas.

Mr. PHILIP (France) stated that in pursuance of the Decision his Government had applied special measures including the duty-free import of capital equipment originating in the Federal Republic of Germany. This was the decision of an ad hoc committee set up under the Franco-German Treaty of 27 October 1956 and special import permits had been given for the Saar mines, electricity, railways and the postal, telegraphic and telephone services. Furthermore, annual tariff quotas had been instituted for importation into the Saar and the French franc area upon the expiration of the transitional period. The lists of annual tariff quotas between the Saar and France had been drawn up by the Joint Committee which met in June 1956.

The CONTRACTING PARTIES took note of the two Reports.

6. Italian Measures in favour of Domestic Production of Ships' Plates (L/875)

The CHAIRMAN called on the Austrian delegate to make a statement on this item which had been placed on the agenda at his Government's request.

Mr. TREU (Austria), referring to his Government's statement in document L/875, reported that the Austrian and Italian delegations had recently entered into consultations on the subject of Italian Law No. 522. Whilst admitting the tax remission provided for by the Tambroni Law, the Italian delegation was of the opinion that the complete stoppage of deliveries of Austrian-produced ships' plates was due to a recession in demand. The Austrian delegation felt that the remission hampered exports and that the elimination of deliveries was not due entirely to the crisis in the shipbuilding industry. In view of the fact that ships' plates were included among the iron and steel products which Austria had traditionally exported to Italy, the Austrian delegation felt it indispensable to follow closely the development of this section of the industry and to continue consultations with the Italian delegation. He proposed the retention of the item on the agenda pending the outcome of the consultations.

Mr. PARBONI (Italy) said that the two delegations had examined the effects of the application of the Tambroni Law on the present situation in the shipbuilding industry. The Italian delegation was of the opinion that that the reduction in imports of ships' plates from Austria was due to the crisis in the shipbuilding industry which was faced with an almost empty orderbook. The Austrian delegation, whilst recognizing the cogency of the arguments, had asked for clarification concerning the application of certain provisions of the Law.

The CHAIRMAN expressed his appreciation of the fact that both delegations expected to resolve this problem by consultation and invited them to report the result to the CONTRACTING PARTIES.

7. Freedom of Contract in Transport Insurance (L/462, L/887 and L/903)

The CHAIRMAN recalled that at the Tenth Session a working party had submitted a "recommendation for elimination of restrictions in regard to transport insurance". He called on the representative of the United States to present his Government's latest proposals on this matter.

Mr. BEALE (United States) said that his Government felt that restrictions on the placing of contracts in transport insurance impeded the development of trade. The Working Party, in reporting at the Tenth Session, had recommended "that governments should avoid measures in regard to transport insurance which have a more restrictive effect on international trade than those they now apply, and should move as rapidly as circumstances permit to reduce any restrictive measures currently in force, with a view to their eventual elimination". His delegation had recently submitted a memorandum (L/903) stating why it was thought important for the CONTRACTING PARTIES to take action at this time. The aim of the CONTRACTING PARTIES was to foster expansion of international trade and these discriminatory restrictions were clearly contrary to this objective.

In order to promote exports the owner of the goods should be permitted to protect himself by insuring against loss in a manner satisfactory to himself at the lowest cost consistent with the protection he desired. This was not the case if the insured did not have the facility of prompt payment in an acceptable currency, and the absence of the necessary element of confidence would not be an encouragement to entering into a trading transaction. Laws and regulations which resulted in hampering or denying the free choice of the owner of goods as to the type and tenure of the insurance which offered full protection always made difficult the financing of commercial transactions through normal private banking channels. The restriction on insurance could deny to the importer goods he needed on account of the unwillingness of the exporter to enter into transactions which he believed to be inadequately protected, and such restrictions could well increase the cost to the importer if the exporter decided to protect himself further by additional insurance. In view of the fact that the item had been on the agenda for three years, the United States delegation strongly supported definite action at this Session. In the absence of such action new restrictive measures were more likely to be adopted and a pattern of restrictions and retaliatory counter-restrictions could develop which would be disadvantageous to all.

The delegates of France, the Federal Republic of Germany, the United Kingdom, Austria, Sweden, Norway and Denmark supported the proposal.

Mr. PHILIP (France) expressed the point of view of a country which had nationalized most of the large insurance companies and which had found that free competition among them and with foreign companies on the basis of complete equality was necessary with a view to their maximum efficiency. Consequently, he was of the opinion that there should be free competition in the international field among public and private insurance companies. This was also in the interests of those seeking insurance. He therefore felt that from every point of view it was in the interest of the CONTRACTING PARTIES to adopt an attitude against all restrictive measures in this field.

Mr. JARDINE (United Kingdom) summarized the problem as being that of the freedom of an exporter to insure his goods on the most economical basis. Restriction of this freedom implied an increase in the cost of exports. If a country imposed such restrictions this increased the selling price of its exports and consequently the purchase price of imports.

Mr. TREU (Austria) desired to clarify the Austrian position in order to avoid any subsequent misunderstanding. Importers and exporters were free to undertake transport insurance with the company of their choice. The granting of trade permits or foreign currency involved no stipulation so far as the choice of a company was concerned, although according to Austrian law, a domestic or foreign insurance company had to grant a concession for the execution of business if requested. When a trader insured goods with a foreign insurance company not having a concession in Austria the transaction was subject to a higher tax on the premium. This protection seemed justified on account of the restricted size of the Austrian insurance market.

Mr. HAGEN (Sweden) felt that priority of action should be to avoid an increase of such practices.

Mr. SOLBERG (Norway) expressed his understanding of the desire of small countries to foster the development of an insurance market although in his view the benefits were small compared with the inconveniences that these restrictions caused in international trade. In the attempt to establish a free multilateral trade system any tendency to revert to bilateral or unilateral action would endanger results hitherto achieved. He proposed a further examination of the resolution in order to reconcile the conflicting views.

Opposition to the proposal was expressed by the delegates of Cuba, Ceylon, Pakistan and Chile, who felt that under-developed countries should be free to develop indigenous insurance.

Dr. VARGAS-GOMEZ (Cuba) recalled that in his country this matter had recently been regulated by Decree No. 543 of 10 February 1958 and Resolution 21 of 3 April 1958 (of the Ministry of Commerce) which contained certain provisions which were incompatible with some of the objectives of the proposal. The question had to be considered in the light of needs for economic development since restrictions on the placing of transport insurance could increase their national income and their employment possibilities. Thus, while he opposed the proposals under discussion he supported the views expressed in the third paragraph of document L/462 to the effect that under-developed countries should be free to develop national insurance enterprises.

Mr. BAIG (Pakistan) recalled that his Government was not in favour of this or similar recommendations since they gave limited recognition to the issues involved. Due to Pakistan's balance-of-payments difficulties, the regulations in force were intended to economize on foreign exchange which enabled imports to be increased. Importers into Pakistan were obliged to insure with companies registered within the country although no discrimination was made between foreign and indigenous companies.

Mr. TENNEKOON (Ceylon) stated that his Government opposed the proposal for it militated against the development of the domestic economy. Protection to producers could best be afforded by the stabilization of prices.

The CHAIRMAN noted the divergencies of opinion which made it impossible to come to any decision before the delegations concerned had had the opportunity to exchange opinions on an informal basis. He drew attention to the Norwegian proposal to resolve specific difficulties and problems by making suitable changes in the draft resolution. Any possibility of understanding which would make the recommendation acceptable to the CONTRACTING PARTIES as a whole would be a very valuable step in the direction proposed.

The meeting adjourned at 5.20 p.m.