RESTRICTED

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S t a t e m e n t
of the Czechoslovak Delegation on Western Germany and other Areas under Military Occupation

In accordance with the article 71 of the Havana Charter and with the corresponding Article XXVI of the GATT may become members of the Organization respectively contracting parties.

1) states
2) separate customs territories proposed by the competent Member having responsibility for the formal conduct of its diplomatic relations and which is autonomous in the conduct of its external commercial relations.

Havana Charter as well as GATT being international treaties, the parties to it must be capable of contracting, otherwise all contracts entered into by such states or territories in excess of their contracting powers are void.

Western Germany is not a state, but only a part of a state still legally existing but whose sovereignty is suspended and cannot be considered either to be a separate customs territory for which some Member has international responsibility.

The interpretative note to the Article XXVI of the GATT states clearly that "Territories for which the contracting parties have international reponsibility do not include areas under military occupation."

In the report of the Working Party 6 on the USA Proposal Relating to Western Germany, revised by the Contracting Parties at the 19th Meeting on 6 September 1948 (GATT/CP.2/32/Rev.1) it was under point 4 stated what follows:

"The representative of Australia expressed the view that, as it was generally accepted that the proposed agreement would be entirely separate from the General Agreement and that any difficulties which might arise between signatories would be matters for adjustment between the signatories concerned, the question was beyond the competence and authority of the CONTRACTING PARTIES; in the light of these and other consideration to which he referred it would be inexpedient and

and improper for the meeting of the Contracting Parties to make recommendations regarding the form of the proposed agreement. The representative of New Zealand stated that the agreement proposed by the United States should be taken up bilaterally with Governments interested rather than at meetings of the Contracting Parties."

For all those reasons the Contracting Parties agreed to that the Agreement on Western Germany should not be formally approved as being a question outside the competence of the C.P.

As the representative of Australia stated at the 19th meeting of the second session of the C.P. (GATT/CP/2/SR.19) "any decision that might be taken would create a precedent which would cause embarrassment to the Australian Government in respect to any similar arrangement proposed in respect to Japan and similar difficulties might be encountered by other Governments interested in the same question."

The Agreement on Western Germany was therefore neither attached to the General Agreement and completely omitted from any reprint of the General Agreement and its related documents.

In this way, the Contracting Parties have decided about the legal position of Western Germany and cannot invite this territory under military occupation to participate in future Tariff Negotiations and become eventually a contracting party.