

Distribution

261. The members of the importers' association generally distribute either to wholesalers or to multiple retailers with six or more shops because the wholesalers' associations expect them to do so. If the importer sold direct to the retailer the wholesaler could not be sure of disposing of his stock and would be unwilling to undertake the heavy forward buying which is necessary in the Hong Kong trade, where orders have to be placed six months before delivery. The importers' practice thereby recognizes the distinction between wholesale and retail trade. It is not enforced by the imposition of any penalty.

CHAPTER 19: CONCLUSIONS ON THE PUBLIC INTEREST AND RECOMMENDATIONS

I. INTRODUCTION

262. In 1954 supplies of rubber footwear in the United Kingdom market amounted to nearly 11 million pairs of rubber boots and 27 million pairs of canvas footwear*. They represented a turnover of about £15 million. The ten† manufacturers in the rubber footwear industry proper supplied about 8 million pairs of rubber boots and 15 million pairs of canvas footwear in 1954. The other principal suppliers were, first, importers who sold 2½ million pairs of rubber boots and 7 million pairs of canvas footwear, over four-fifths of each being of Hong Kong origin; and secondly, the manufacturers in the leather footwear industry (many of them in the Rossendale Valley) who marketed over 4½ million pairs of canvas footwear such as fashion shoes and "casuals" with rubber soles.

263. The eight† members of the Rubber Footwear Manufacturers' Association supplied in 1954 nearly 7½ million pairs or over two-thirds of the rubber boots, and nearly 12 million pairs or between two-fifths and a half of the canvas footwear sold in the United Kingdom. One of them, the Dunlop Rubber Co. Ltd., is by far the largest manufacturer of both types. One other member of the Association supplied more than a million pairs of rubber boots but no independent manufacturer produced anything like that quantity. Three manufacturers besides Dunlop each supplied more than a million pairs of canvas footwear. Two of them were members of the Association and with Dunlop supplied almost 11 million pairs or about two-fifths of the United Kingdom market. But after Dunlop the largest manufacturer of canvas footwear was the British Bata Shoe Co. Ltd. which ceased to be a member of the Association in 1952.

264. In 1954 there were 42 importers of Hong Kong rubber footwear. Twelve of these belonged to the Association of Hong Kong Rubber Footwear Importers, and in that year supplied about 1½ million pairs or just over half of the rubber boots, and about 4½ million pairs or nearly two-thirds of the canvas footwear, imported from Hong Kong; that is to say, nearly one-eighth in quantity of the United Kingdom market in rubber boots and nearly one-sixth in canvas footwear. The Hong Kong footwear sold by members of this association is made for the most part by four manufacturers.

265. The R.F.M.A. was founded as the Rubber Shoe Manufacturers' Association just forty years ago. But although between the wars there were intermittent discussions between members as well as between the Association

* For the meaning which we attach to "canvas footwear" see paragraph 1.

† This number includes the Waverley Rubber Company Ltd. who ceased to make rubber footwear on 16th March, 1956.

and importers, especially the Canadians, on such subjects as prices and traders entitled to wholesale terms, it was only towards the end of the last war and in the years which followed that the Association's present arrangements evolved. The Association of Hong Kong Rubber Footwear Importers was formed in the early days of the last war, but though the terms of the agreement with exporters in Hong Kong were settled in 1941, it was not brought into effect till 1948 because of war-time conditions.

II. PRACTICES IN THE R.F.M.A.

266. The arrangements in the R.F.M.A. which we have to consider are:—

- (1) *Price consultation and uniform prices.* At the beginning of the summer and winter selling seasons members discuss at meetings of the Association the prices to be charged to wholesalers for basic standard lines of rubber boots and canvas footwear. Members charge the same prices for the basic standard lines which they make and for certain other types of rubber footwear as well. They also have an understanding not to negotiate special prices with traders (other than variety chain stores) for large orders without notifying each other.
- (2) *Understanding on seasonal prices.* Members of the R.F.M.A. have an understanding that after they have announced their prices of standard lines for the season they will not alter them during the currency of the season.
- (3) *Compensation of traders at price reductions.* Early in 1952 R.F.M.A. members came to an understanding that when prices were reduced they would credit traders with the difference between the old and the new price only on rubber footwear delivered during the month preceding the reduction and no earlier. This understanding has ceased to be of importance since fixed seasonal prices were introduced for the winter season of that year.
- (4) *Uniform terms for prompt payment.* Uniform terms for prompt payment are allowed by all members.
- (5) *Resale price maintenance.* Most but not all R.F.M.A. members fix and maintain individually the resale prices of a number of lines of rubber footwear. The resale prices, when maintained, are uniform for basic standard lines, there being uniformity both in the manufacturers' prices and in the trade margins which they allow on these lines.
- (6) *Classified List of Traders entitled to wholesale prices and terms.* Members allow wholesale prices and terms on rubber footwear (other than industrial rubber boots) to traders only if they are on the Association's Classified List. The Association, in consultation with the Footwear Distributors' Joint Council, have defined the qualifications for admission to the list and decide on admissions to, and removals from, it.
- (7) *Users' terms.* By agreement, R.F.M.A. members allow wholesalers' terms
 - (a) on industrial rubber boots, to
 - (i) users on an agreed list, and
 - (ii) County Councils placing orders of a minimum of one gross pairs delivered in one consignment to a central store;

(b) on canvas footwear, to County Councils and education authorities placing orders of not less than 5,000 pairs delivered to one address.

(They do not allow wholesalers' terms to other users, without notifying each other.) Also by agreement they charge to Hospital Boards the same prices as they charge to retailers.

267. We have now to consider in relation to each of the foregoing practices the various questions which affect the public interest.

Price consultation and uniform prices

268. The R.F.M.A. have argued strongly that their price discussions do not restrict competition and that the absence of them would not result in a lower level of prices nor make any difference to the uniformity of the prices charged for the basic standard lines. Their contention is that in the conditions of the industry prices will always follow those set by the so-called "price leader", that at the price discussions the "price leader" (Dunlop on practically all lines except overshoes*, for which North British is the "leader") announces the prices he intends to charge, and that the "leader's" prices are determined in advance and are not changed as a result of the discussions. They maintain that there is no agreement among members to charge uniform prices and that they are entirely free to fix their own prices. In practice they follow the "price leader" because in view of the latter's commanding position as a producer and his exceptional knowledge of the market this is the sensible thing to do, and even if there were no discussions they would adopt the same course. The difference would be that if there were no discussions they would delay fixing their prices until the "leaders" had published theirs. The price discussions are a convenient method of avoiding the delay and uncertainty which would otherwise occur.

269. We have carefully considered the contentions that uniform prices are not the result of agreement and that price competition is in no way restricted by the Association's price discussions. We deal with the first of these contentions in this paragraph and with the second in paragraphs 270 and 271. The claim that there is no agreement on prices seems to us to be difficult to reconcile with the R.F.M.A.'s own case, and the evidence as a whole points strongly to the existence of agreement. The following matters are relevant in this connection:—

- (a) Uniform prices to wholesalers for basic standard lines have been in operation at least since 1947, and the Association have not been able to satisfy us of any instance where a member of the Association, while remaining a member, fixed with the knowledge of the Association a lower price to wholesalers for basic standard lines than that charged for comparable footwear by the other members, after consultation at a meeting of the Association.
- (b) In support of the statement that any member can charge what prices he likes, the Association have said that on one occasion in 1949 Bata freely fixed its prices lower than those of other members for certain lines†. But the evidence shows that on that occasion Bata had explained to the Secretary of the Association that the company was reducing the prices of its plimsolls in line with a reduction already made by other members after discussion in the Association.

* This term, according to the R.F.M.A., includes all types of footwear worn over the boot or shoe. We therefore take it as covering not only goloshes which are outside our terms of reference, but also overboots, which are within it.

† See paragraph 112.

The Secretary then informed Bata that it would therefore be "quite in order for the revised prices . . . to operate as from 28th February, 1949". This correspondence would have been pointless if members were as free as the Association say. According to Bata there was an unwritten understanding in the R.F.M.A. to charge uniform prices. Bata found that the other members wanted prices higher than Bata thought necessary; Bata's views though plainly stated were not accepted and, as a member, Bata felt obliged to fall into line with the majority.

- (c) In the minutes of price discussions until 1948 prices are recorded from time to time as "agreed". The Association tell us that this merely meant acquiescence in the lowest price announced. After 1948, when the Monopolies and Restrictive Practices Act was passed, the minutes do not use the word "agreed" in this context but simply say that "exchanges of information" or "views" took place. Nevertheless, the Association tell us that there has been no change of procedure.
- (d) The R.F.M.A. argue that "price leadership" and price consultation between manufacturers tend to curb prices in times of inflation and to prevent prices from falling below replacement costs in times of depression. They also maintain that in "average trade conditions—neither boom nor slump—price is lower than under so-called price competition". These arguments presuppose that manufacturers are restrained from fixing their prices in accordance with their individual view of the market.
- (e) The Association's understandings that special terms will not be granted to traders on large orders unless the member concerned declares his intention to other members, and that credits will be given to traders on uniform terms if prices are reduced*, are only intelligible on the basis that uniform prices are at least morally binding.
- (f) The Association's records show that when Rubber Improvement Ltd. first applied for membership in 1948 the general view of members was that it was advisable to have them in the Association "as this would prevent any price-cutting"†.

270. In our opinion, therefore, the R.F.M.A.'s uniform prices for basic standard lines are the result of agreement among members. But even if this were not so, we are satisfied that their price consultations are restrictive of competition. Arguing in the contrary sense, the R.F.M.A. have suggested that the uniform prices in this industry are proof of effective competition because they apply to articles of uniform quality, or at all events to articles in respect of which differences in quality are unknown to the consumer. In support of their argument, they appeal to a proposition of economic theory, namely that perfect competition in any market produces a single price. If such a price is not realised in actuality, this is usually because competitors are ignorant of each other's intentions and therefore feel their way blindly. Announcement of intention, by dispelling ignorance, eliminates this "blind groping" and so creates the conditions necessary for the competitive process of price formation. The existence of a uniform price for these products is therefore evidence not of restrictive activities but rather of the perfection of competition. We do not accept this conclusion. In the first place, the

* This practice is at present inoperative owing to the fixed seasonal price. See paragraph 266 (3).

† See paragraph 80.

logic of the argument is defective. The unquestionably correct proposition that perfect competition in any market produces a single price affords no grounds for supposing that a single price is always the result of perfect competition. It may quite well be the result of agreements among producers or of the acquiescence of all producers in a price fixed by one of their number. Secondly, the R.F.M.A.'s argument is not applicable to the facts of this industry. The theory to which they refer presupposes that the products which the several producers offer in the market are perfect substitutes, that is to say they are equally acceptable to customers by reason of being comparable in reputation and apparent quality. But it is clear from the evidence of the R.F.M.A. that some makes of rubber footwear are more popular than others because they are better known, and they stress the incentive to improve quality which is provided by "the struggle for the goodwill of the retailer and consumer". Other witnesses have referred to the differences in quality of the products of different R.F.M.A. members sold at the same price*. In the circumstances, the existence of uniform prices points to restricted rather than effective competition.

271. We do not doubt that when there is one producer who holds a sufficiently powerful position in the market other producers may be anxious to avoid price competition with him. This however only confirms the view that uniform prices by R.F.M.A. members are evidence not of effective competition but of the absence of it. It is significant that in pre-war days when, according to the R.F.M.A.'s evidence, "price leadership" operated on industrial rubber boots, there was an increasing home demand for these goods and prices were more or less stable†. On other rubber footwear, however, owing to the intensity of competition, particularly from imports, prices were unstable and "price leadership" broke down. It would appear that "price leadership" in the sense in which the term is used by the R.F.M.A. means something different from the operation of perfect competition in a free market. What in fact it appears to mean in this context is a tacit agreement by "competing" manufacturers to observe, irrespective of their own costs, the prices set by Dunlop for most lines and by North British for overshoes. Dunlop's output of rubber boots and canvas footwear is several times that of any other manufacturer. Ordinarily, therefore, it is to be expected that Dunlop's prices would exert a strong influence on the prices at any rate of comparable goods made in the United Kingdom. Dunlop's price has prevailed among United Kingdom manufacturers except Bata‡ for most basic standard lines since 1951. Considering the exceptionally strong position of Dunlop, we have no doubt that if there were no consultation the prices charged by the other manufacturers would be much influenced by what they knew or thought Dunlop would charge. We find it impossible to believe, however, that there would be no circumstances in which other manufacturers would find it advantageous to charge prices even slightly different from those of their biggest competitors. This seems to us the more likely because there are certain differences in quality even where prices are now uniform, and because the footwear of some of the larger firms finds a readier market thanks to the maker's reputation not only in rubber footwear but also in other rubber goods. At the same time the "price leader" would, we think, be sometimes influenced to bring down his prices in anticipation of

* See paragraphs 122 and 123.

† See paragraph 95.

‡ Bata's prices are generally lower than those of R.F.M.A. members but the R.F.M.A. regard the differences as partly accounted for by differences in quality. They also believe that their own goodwill in the trade is superior to Bata's because Bata competes with the trade through its own retail shops. The R.F.M.A. say that their members do not therefore find it necessary to bring down their own prices to the level of Bata's.

what he thought the other firms might charge. It seems to us that it is clearly restrictive of competition for manufacturers to have an arrangement under which they deliberately refrain from fixing their prices until the prices proposed by the major producers are disclosed at a meeting and all parties have had an opportunity of commenting upon them. Such discussions must, in our opinion, whether or not they result in agreed uniform prices, strengthen the tendency to eliminate competition which is to be expected in an industry where the number of manufacturers is small.

272. Having found that the arrangements by which R.F.M.A. members discuss prices are restrictive of competition, we have now to consider whether these arrangements operate, or may be expected to operate, against the public interest.

273. *Price levels and manufacturers' costs.* The R.F.M.A. stress that "the price leader is a low cost producer—not always the producer with the lowest cost of any, but always a producer whose costs are among the lowest. For this reason the price is lower, exercises a far greater driving force and increases efficiency more effectively than is the case under price competition". Price leadership, they say, by keeping prices down promotes a continuous search for better methods and a downward trend in real costs. Apart from overshoes, the R.F.M.A.'s evidence is that there have been only one or two occasions since 1951 on which a member has ever suggested prices lower than those announced by Dunlop—for example, in respect of the "bumper" type of canvas shoe*. We have obtained the costs of five standard lines of rubber boots from three (and in one case four) manufacturers, including Dunlop†. These manufacturers together account for about 90 per cent. of the R.F.M.A. members' rubber boot sales. The same manufacturer was the lowest-cost producer in each case, while Dunlop was the highest-cost producer out of three manufacturers in two cases. Dunlop's costs‡ were considerably above the costs of the lowest-cost producer in four of the five lines costed, and Dunlop's rate of profit on rubber boots as a whole was lower than his. During the period covered by our figures, 1951-54, it is clear, therefore, that the "price leader" was not always "a producer whose costs are among the lowest".

274. The R.F.M.A.'s contention that "price leadership" keeps prices down rests, however, on the premise that the "price leader" is always one of the lowest-cost producers. They further maintain that irrespective of price discussions another manufacturer will only undercut the "leader's" price if by doing so he can increase his own sales. In that event, under the present system he displaces the "price leader". We have found that Dunlop, which is normally the "leader", is not always a low-cost producer, and we cannot doubt that there must be some occasion when low-cost members would wish to increase their own sales, and would think it worth while to do this by bringing down their prices, if they did not feel obliged to observe the "leader's" prices once they have been tabled and discussed. We must therefore reject the R.F.M.A.'s suggestion that it is not because of their arrangements that Dunlop's price proposals have been rarely challenged in recent years.

275. The "price leader's" need to take account of the prices of imports when fixing his own prices is another factor which according to the R.F.M.A. keeps prices down. This is of course true, but if each manufacturer fixed

* See paragraph 111.

† See paragraph 219.

‡ Dunlop's products include certain textiles and latex acquired from within its own organization. These materials have been included in costs at current market prices in order to make the costings comparable with those of other manufacturers. (See paragraph 220).

his prices independently they would all have to take account of the competition from abroad, and in our view they would be in a better position to meet that competition if they felt free to adjust their prices to meet it.

276. The figures set out in Appendix 3 make it possible to compare the average price of a pair of boots sold in 1954 by the suppliers in each main category, and similarly for canvas footwear. We have no reason to suppose that 1954 was not a representative year in this respect, and in this way we find that, speaking generally,

- (a) the most expensive rubber boots are sold by the R.F.M.A. members and the least expensive by importers, with independent manufacturers in the United Kingdom rubber footwear industry proper between the two ;
- (b) in the case of canvas footwear the most expensive are those of the United Kingdom manufacturers outside the rubber footwear industry proper, next those of the independent manufacturers in the rubber footwear industry proper, then those of the R.F.M.A. members, and the least expensive are again those supplied by importers.

We have not been able to ascertain to what extent the differences in average price are to be accounted for by differences in the quantities sold in particular lines of footwear, and to what extent they are due to differences of quality between goods in similar lines or to differences in price of goods of the same quality. In particular, in connexion with canvas footwear it is necessary to remember that the United Kingdom manufacturers outside the rubber footwear industry proper sold practically no shoes of the plimsoll type, which are sold in large quantities by the R.F.M.A. manufacturers and are naturally less expensive than fashion shoes and "casuals".

277. *Levels of profit**. The R.F.M.A. have stressed that their profits should be judged on the combined results in respect of rubber boots and canvas footwear. These profits are certainly not large. The highest profit earned by a member of the Association in any of the four years 1951-54 was 8.3 per cent. of sales, and the highest weighted-average profit for all R.F.M.A. members taken together was 4.1 per cent. of sales, equal to 7.5 per cent. on capital employed. But the lowest rate of profit made in any of these years by Bata, the larger of the independent manufacturers, was 13.8 per cent. of sales ; and in only one of the years did the Futura Rubber Co. Ltd., the smaller independent manufacturer, make a rate of profit slightly below the highest made by an R.F.M.A. member. The trading results of the R.F.M.A. members on canvas footwear alone have been much less favourable than on rubber boots. In only one of the three years 1952-54 did a single member, of the four who were able to give us separate figures, avoid a loss on canvas footwear, and the weighted average for the Association in 1954, the least unfavourable year, was a loss of 2.8 per cent. These figures include fashion footwear and "casuals", for which members' prices differ, as well as the standard lines for which their prices are uniform. But there is no reason to suppose that the results on footwear at different prices were less favourable than on those at uniform prices. On the contrary, it is in the less expensive standard lines of canvas footwear that competition from Hong Kong is the keenest, and the R.F.M.A.'s belief that it is competition from this source which is the cause of their poor results is no doubt correct. We note, however, that canvas footwear accounted for over two-thirds of

* The percentages quoted are profit rates after deducting all normal costs and ignoring taxation; see paragraph 218. For the figures mentioned in this paragraph see paragraphs 221-226.

the value of the independent manufacturers' total home sales of rubber footwear in 1954 and it is evident from their profit figures that they managed to compete with imports much more successfully than did members of the R.F.M.A.

278. In answer to the question why manufacturers continue to make canvas footwear with little or no profit, the R.F.M.A. have told us that it is necessary to offer traders a complete range of goods. We appreciate that in summer lines (canvas footwear) or winter lines (rubber boots) taken separately, it may well be necessary to offer a complete range. But the evidence does not support the assertion that a complete range must be offered in both categories. We note that*, although for all R.F.M.A. members together rubber boots account for about 60 per cent. and canvas footwear for about 40 per cent. by value of their sales in the home market, one of the larger manufacturers of rubber boots nevertheless specializes in rubber boots to the extent of 85 per cent. of the value of his home sales; on the other hand, rubber boots constitute only 4 per cent. of the home sales of one of the larger manufacturers of canvas footwear. Two members do not show plimsolls in their current price lists. Evidently, therefore, not all R.F.M.A. members find it necessary to offer a full range of summer and winter lines regardless of their respective profitability.

279. *Effect of price discussions on prices and costs.* The competition which R.F.M.A. members face in canvas footwear is formidable and in rubber boots by no means negligible. There is reason to believe that it is increasing in both types of footwear, and particularly in rubber boots. The trading results of R.F.M.A. members in canvas footwear have been extremely unfavourable, although the independent United Kingdom manufacturers have fared much better. The business of R.F.M.A. members in rubber boots has shown better results, for here they face less competition, particularly in the industrial lines. But even considered in isolation their profits on rubber boots cannot be regarded as excessive. If, on the other hand, outside competition were for any reason to diminish, the prices of R.F.M.A. members for rubber footwear generally might be expected to rise to a level which would give Dunlop a profit which it regarded as reasonable—and so give lower-cost producers in the Association a profit higher than they would otherwise be content to accept. With the present degree of competition, we do not think that, at any rate at first, the general level of prices would be greatly affected by the cessation of the R.F.M.A.'s price discussions. But for the reasons which we have given we would expect differences in price between manufacturers to develop, with a closer relationship between costs and prices, which would be in the public interest.

280. In our opinion, the price discussions militate against the reduction of costs by the R.F.M.A. manufacturers. It seems to us significant that Bata and Futura, the two manufacturers who do not belong to the Association, on the whole had considerably better results for the years 1951-54 than present members of the Association. It is true that even when Bata was still a member in 1951 and 1952, this firm's rate of profit was much the highest. But the evidence shows that Bata found it irksome to have to follow Dunlop's prices irrespective of Bata's own costs of production. Futura showed a rate of profit better than any present member of the Association for three of the years, and, in one year only, a rate slightly below that of the most successful member.

281. We are confirmed in our opinion as to the effect of the price discussions on costs by the considerable range of costs between manufacturers

* See paragraph 216.

which we have found in the five uniformly priced lines of rubber boots which we have examined*, though the evidence for canvas footwear is scantier. The price discussions must, we think, sometimes prevent one producer from selling at prices below another even if his costs enable him to do so. They discourage, if they do not prevent, members from granting special terms on large orders of their own accord, and help them to resist collectively large buyers who press for concessions of this kind. In this way they both reduce the incentive to keep down costs and also protect the higher-cost producer. We recognize that competition from independent manufacturers and from importers already provides a strong incentive to efficiency. But the fact is that the independent manufacturers manage to meet the competition much more successfully than the R.F.M.A. members, and an important reason, we think, is that the R.F.M.A. members' habit of consultation and of following Dunlop's view of the market and Dunlop's prices discourages individual enterprise and adaptability. Without these consultations, and with more competition between them, we believe that all members, including Dunlop, would be compelled to be more critical of their own costs.

282. *Advantages to manufacturers of price discussions.* The R.F.M.A. themselves do not believe that the discussions would help them in economic circumstances like those of the 'thirties, and the evidence supports this view. The main justification for the discussions, according to them, is that they eliminate the period of "blind groping" which would otherwise follow price changes, until competitors had finally decided to fix their prices in line with the largest producer. They say that traders are thus encouraged to place large advance orders and manufacturers can consequently plan their production economically. We are satisfied that the arrangement has some advantages for the manufacturers and the distributors which would be lacking if manufacturers had to plan their production on their individual view of the market.

283. *Quality.* The evidence satisfies us that in general the rubber footwear supplied by R.F.M.A. members is of high quality and that that imported from Hong Kong is of somewhat lower quality, though better than it was before the war. We do not find it possible to reach any reliable conclusion as to the comparative quality of the rubber footwear supplied by R.F.M.A. members and that supplied by independent manufacturers within or outside the rubber footwear industry proper. The R.F.M.A. maintain that their arrangements not only provide a minimum standard but tend to improve quality. "The common price", they say, "and the struggle for the goodwill of the retailer and consumer provide an urge to improve quality—an incentive lacking under the old form of price competition". It is of course arguable that when price competition is eliminated, competition in quality is an obvious alternative for manufacturers who wish to compete, and it is clear that R.F.M.A. members are concerned to maintain the quality of their rubber footwear. It seems to us, however, that, irrespective of common prices, there are two reasons why R.F.M.A. members are likely to maintain the quality of their products. First, they cannot compete in price with Hong Kong imports, and must, if they are to compete with them at all, compete in quality; and secondly, even if competition from imports were to diminish, large buyers would, we think, still insist upon rubber footwear of the standard which they required. There is no evidence that under competitive conditions before the war the quality of any type of rubber footwear manufactured in the United Kingdom was debased, nor has it been suggested that the quality of fashion shoes and "casuals" (for which there are no uniform prices) is not high.

* See paragraph 219.

284. *Conclusion.* We are satisfied that the detriment to the public interest of the price consultations and uniform prices arising in the ways set out in paragraphs 279 to 281 outweighs any possible benefit to the public arising from the matters discussed in paragraphs 282 and 283. We therefore consider that the R.F.M.A.'s price consultations operate, and may be expected to operate, against the public interest. It follows from what we have said that we reach the same conclusion about the understanding between R.F.M.A. members not to negotiate special prices with traders for large orders without notifying each other.

285. *Recommendation.* We recommend that members of the R.F.M.A. should cease to consult one another about prices of either rubber boots or canvas footwear, and should also be free to negotiate special prices with any trader for large orders without notifying each other.

Understanding on seasonal prices

286. At the request of the Footwear Distributors' Joint Council the R.F.M.A. reverted in 1952 to their pre-war practice of announcing their prices in advance for the summer and winter seasons and maintaining them throughout the season without change. Since then there has been an understanding between R.F.M.A. members that they will observe this practice. The understanding applies only to standard lines and not to "casuals". The R.F.M.A. say that, like their price discussions, it encourages traders to place large advance orders; for if it were not known that prices were to be firm distributors would be assailed with doubts and early contracts would not be forthcoming. Whether the object of the arrangement is desirable or not, we do not think that it necessitates or justifies the collective restriction of the freedom of manufacturers to adapt their practices to changed circumstances such as intensified competition or fluctuation in the prices of raw materials. It seems to us to be entirely a matter for the individual manufacturer to decide whether his business can be conducted more efficiently by offering fixed seasonal prices or by arrangements under which his prices can be varied during the season, no doubt with provision for compensation to traders where appropriate. It was on this issue that Bata resigned* in September, 1952, when it wished to meet foreign competition by reducing its prices during the season. After resigning it did reduce its prices and at the same time compensated its customers in the trade. The Association say that they once did this themselves many years ago, but that claims were so large and difficult to check, and so much ill-feeling was engendered, that they did not do it again. This is not, however, in our view a sufficient reason for preventing individual members from repeating the experiment if they think that it will further their business or meet the needs of the public. The Association maintain that in September, 1952, they could not reduce their prices without breaking faith with the distributors. In respect of future seasons, no such question need arise if the R.F.M.A. make it clear to the distributors that there is no collective undertaking by members not to change their prices during the season. The R.F.M.A. have not suggested that any harm has been caused by the absence of a similar understanding among members for "casuals".

287. *Conclusion and recommendation.* We conclude that the understanding between R.F.M.A. members not to change their prices during the currency of a season operates and may be expected to operate against the public interest. We therefore recommend that this understanding be discontinued for future seasons.

* See paragraphs 125-127.

Compensation to traders at price reductions

288. Early in 1952, in response to pressure from the trade, the R.F.M.A. agreed that when prices were reduced, traders should receive compensation on stocks delivered during the preceding month. R.F.M.A. members uniformly adopted this practice. The main reasons for it, according to the Association, were, first, that traders should know what credits they would receive so that they would not stop buying when price reductions were in the wind, and secondly, that if manufacturers had to negotiate terms individually with traders they might be forced to make concessions which bore no relation to the stocks which the traders held. The Association point out, however, that when in 1952 supplies became more plentiful they were able to accede to the distributors' request for fixed seasonal prices. In that year allocation of supplies to the trade by manufacturers ceased, and distributors placed forward contracts, letting their stocks run down at the end of each season. Hence, the Association say, the problem of losses on stocks in the event of price reductions, when prices for the next season are announced, is no longer important to the trade, and the question of compensation does not arise. This is confirmed by the evidence which we have received from wholesalers.

289. Clearly, however, if fixed seasonal prices were discontinued, the R.F.M.A. might revive the practice of giving compensation on uniform terms at price reductions. We think that a collective understanding to this effect would be undesirably restrictive of competition. We recognize that the distributors are able to exert a considerable collective bargaining power, but it is not in our view in the public interest that the manufacturers should be compelled by a collective understanding to make concessions only within defined limits, irrespective of their individual circumstances. We note that for rubber footwear outside the standard lines no collective arrangement was found necessary.

290. *Conclusion and recommendation.* If effect should again be given to the understanding between R.F.M.A. members to allow compensation to traders in accordance with a uniform practice when prices are reduced, it might be expected to operate against the public interest, and we recommend that it should not be revived.

Uniform terms for prompt payment

291. We are told that uniformity in terms for prompt payment has come about by a custom of long standing in the trade and that manufacturers are not obliged to allow uniform terms. This practice supports the R.F.M.A.'s uniform prices, but having regard to the substantial bargaining power which we have found traders to exercise in their dealings with the manufacturers, we should see no objection to these uniform terms if prices were no longer fixed after discussion.

292. *Conclusion.* Provided that the R.F.M.A.'s price discussions are discontinued, we do not consider that their uniform terms for prompt payment may be expected to operate against the public interest.

Resale price maintenance

293. At present the larger R.F.M.A. members maintain the prices of most lines of rubber boots, except light varnished wellingtons. Two members, however, do not maintain the prices of any rubber footwear. For canvas footwear members' practice is more varied. They do not maintain the prices of plimsolls and some do not maintain the prices of certain of their "casuals". The recognised margins in the trade are 12½ per cent. on sales to the wholesaler and 25 per cent. to the retailer, but the R.F.M.A. tell us that these are not obligatory and that some manufacturers in fact give

higher margins on better-quality products. Although most lines of rubber footwear made by the R.F.M.A. members are price-maintained, we do not find that these manufacturers pursue price maintenance as a common policy nor do they enforce their resale prices collectively. In this respect we accept the assurance of the Association that the statement* on the application form for admission to the Classified List that acceptance implies an obligation to observe manufacturers' prices, was merely meant to warn the candidate that certain members of the Association included resale price maintenance in their conditions of sale. The Association offered to remove the statement from the application form if we entertained any doubts about it and we do feel that it is liable to be misunderstood; but if our recommendations in paragraph 302 are implemented, the question will not arise.

294. The R.F.M.A. have invited our special attention, in considering the effect of resale price maintenance in this industry, to the degree of outside competition which the Association members have to face. Of the independent manufacturers neither Bata (when selling to distributors outside its own organization) nor Futura fix resale prices, though both recommend margins which they consider suitable. Manufacturers outside the rubber footwear industry proper making canvas footwear neither fix nor suggest trade margins. The great bulk of imported rubber footwear is not price-maintained.

295. *Conclusion.* 'The position therefore is that while the resale prices of most lines of rubber footwear made by R.F.M.A. members (and particularly of rubber boots) are maintained by members individually, there is considerable variation of practice within the Association, and among other suppliers of rubber footwear resale price maintenance is exceptional. There is plenty of non-price-maintained rubber footwear on the market, there is no collective arrangement for maintaining resale prices and no collective enforcement. These facts all tend to ensure that there is a considerable measure of freedom for resellers. We do not, therefore, consider that the maintenance of resale prices of rubber footwear by R.F.M.A. members, in the manner and to the extent that they maintain them at present, operates, or may be expected to operate, against the public interest.

The Classified List of Traders entitled to wholesale prices and terms

296. *Nature and purpose.* R.F.M.A. members may grant wholesale prices and terms, that is, manufacturers' lowest basic prices and cash settlement terms, only to traders on the Classified List. The R.F.M.A. state that the purpose of the list is to organize the industry's distributive channels by ensuring that wholesale terms are not granted to any trader who does not earn them by performing a wholesale function. Traders whom they regard as performing this function are (a) wholesalers who employ travellers and hold stocks adequate to serve retailers; (b) multiple shoe shops with ten or more branches who place forward orders and carry stocks at a central warehouse, thus performing for their own branches the same service which the wholesaler performs for the retailer; and (c) mail order houses buying in bulk. By placing forward orders traders in these categories help the manufacturer to plan production more economically. The Association are particularly anxious to exclude "the kind of trader who enters the trade and disrupts it when conditions are favourable and leaves it when they are not". Traders on the list deal not only in basic standard lines where prices are uniform but also in other rubber footwear such as "casuals" where prices are not, and the obligation not to grant wholesale terms to buyers not on the list extends to this other footwear as well as to the basic standard lines. R.F.M.A. members are free to sell direct to retailers not on the Classified

* See paragraph 137.

List and when they do so they charge the trade price, that is the wholesaler's price to the retailer, because in that case the manufacturer himself has to bear the extra cost of delivering in small quantities.

297 *Procedure for admission.* The procedure for admission to the list is fairly elaborate. An application undergoes two processes of screening. First, after members of the R.F.M.A. have had an opportunity to consider it individually it is separately considered by Sub-Committees of the R.F.M.A. and F.D.J.C. meeting half-yearly at the beginning of each season. Secondly, it is taken up for decision shortly after by a Joint Sub-Committee of the R.F.M.A. and F.D.J.C. presided over by the Honorary Secretary of the R.F.M.A. Other members of the Joint Sub-Committee are representatives of the North British Rubber Co. Ltd., British Tyre and Rubber Co. Ltd., and Dunlop for the R.F.M.A. and three or four representatives of the F.D.J.C. Appeals against decisions of the Joint Sub-Committee lie to the Sub-Committee itself and not to any other body.

298. Until 1953 the Sub-Committee included representatives of the Canadian Rubber Footwear Importers' Association, and it was then possible for the R.F.M.A.'s representatives to be outvoted by the representatives of the F.D.J.C. and the Canadian importers. This happened in 1947, when the Canadians asserted that some of their members, whose applications had in the first instance been rejected, were engaged in wholesaling as well as importing. Though the manufacturers maintained that the firms concerned were importers rather than wholesalers, they were eventually put on the list. Now, however, there are only manufacturers and distributors on the Joint Sub-Committee, and the R.F.M.A. say that the manufacturers have the last word. There is evidence that on one occasion the R.F.M.A. put a trader on the list despite the F.D.J.C.'s objection.

299. *Facility of entry.* The R.F.M.A. do not deny that it is harder for a trader to obtain wholesale terms from the Association collectively than from manufacturers individually. Indeed, they emphasize that it is the object of the list to make it so. Though the Association have indicated that it is not difficult for a manufacturer to get a new name added to the list, they admit that the manufacturer's recommendation may not always be accepted. From 1947 to 1954, out of 317 applications received 171 were rejected and 17 were deferred for further consideration. We have examined a number of cases of traders whose applications were rejected and have found nothing to suggest that the R.F.M.A. have not applied fairly the qualifications which they have laid down.

300. *Observance of the list.* The R.F.M.A. maintained at one stage that observance of the list was not an obligation but a matter of convenience. They have since said that it is a moral obligation. The evidence of individual members shows that manufacturers have sometimes deviated from the list but we have come across only about half a dozen cases of this kind. The F.D.J.C. have certainly understood that manufacturers were not at liberty to grant wholesale terms to traders not on the list. We have no doubt, therefore, that the R.F.M.A. members do recognize the observance of the list as a moral obligation. They prefer such an arrangement to the optional observance of a recommended list because they regard it as more effective in protecting individual manufacturers from the pressure of traders who are not qualified for admission. Evidently, members wish to avoid the embarrassment of refusing wholesale terms to traders whom some members find acceptable; they are afraid that undesirable traders may play off one manufacturer against another, and they no doubt have in mind the disfavour with which the optional observance of a recommended list would almost certainly be regarded by the F.D.J.C.

301. *Conclusion.* The Classified List is in our opinion an effective instrument for ensuring that wholesale terms are confined to traders who comply with certain qualifications. The qualifications have been laid down by the R.F.M.A. in consultation with the F.D.J.C., who are also consulted about traders' applications. R.F.M.A. members clearly feel that the operation of the list enables them collectively to resist pressure from traders to which they might individually succumb. Though we have not found that the list has been unfairly operated, we consider that by preventing individual manufacturers from exercising their own judgment in the choice of distributors it tends to produce an undesirable rigidity. And we think that the danger arising from such inflexibility is the greater because representatives of the distributive trade, who have an interest in limiting the number of wholesale outlets, are not only consulted about qualifications but are also associated with the manufacturers in deciding about admissions. We consider that each manufacturer should be free to judge for himself which traders are entitled, by the nature of their service to him, to receive wholesale terms. Our finding, therefore, is that the Classified List operates and may be expected to operate against the public interest.

302. *Recommendation.* We recommend that the Classified List as well as the Joint Sub-Committee and the other arrangements for administering the list should be discontinued. We should, however, see no objection if the R.F.M.A. were to circulate to members a recommended list of traders suitable for wholesale terms, provided that the Association did not consult the distributive trade in compiling it and made it clear that members were under no obligation to observe it.

Users' terms

303. Wholesale terms are given by R.F.M.A. members to certain large users of industrial rubber boots if their names are entered on an agreed list. The list was drawn up after the F.D.J.C. had asked the R.F.M.A. to "collaborate in arriving at arrangements whereby protective footwear including industrial rubber footwear flowed through the normal distributive channels". The list includes only certain nationalized industries and commercial concerns buying in bulk. For other users entitled to special terms there are agreed definitions*.

304. According to the Association, manufacturers are free to depart from the list of users of industrial rubber boots provided that they first inform one another. They tell us that in such a case the member concerned declares his intention, and "if other members were to agree the Association would undertake to discuss the matter with the Footwear Distributors' Joint Council before such a name is added to the official list of such users If the other members were unwilling to agree, the individual member is still free to carry out his intention . . .". So here again the manufacturers consult representatives of the distributive trade before granting to a user terms which may have the effect of depriving some wholesaler of the business. Though an R.F.M.A. member may in the last resort be free to grant wholesale terms to a user not on the list, notwithstanding the objections of his fellow members and the distributors, we think that the formalities which must be completed before he can do so must have the effect of discouraging such independent action. We see the same objection to this arrangement as to the Classified List, namely, that where it operates it tends to stereotype the pattern of trade. Though the collective selection by definition of other users entitled to special terms is less objectionable because there is no consultation with representatives of the distributive trade on individual cases,

* See paragraph 266 (7).

we consider that the grant of special terms to users should be left to each manufacturer to decide in accordance with what he thinks most expedient for his business.

305. *Conclusion and recommendation.* We are accordingly of the opinion that the collective selection by the R.F.M.A. of users entitled to special terms, either by means of an agreed list or by means of agreed definitions, operates and may be expected to operate against the public interest. We therefore recommend that these arrangements should be discontinued.

III. THE DUNLOP RUBBER COMPANY LTD.

306. We have found in Chapter 17 that the conditions defined in the Act prevail in respect of the supply of rubber boots by the Dunlop Rubber Company alone. In 1954 the company accounted for about 45 per cent. by quantity and value of all the rubber boots supplied in the United Kingdom. We have, therefore, to consider whether anything is done by Dunlop as a result of, or for the purpose of preserving, those conditions which operates, or may be expected to operate, against the public interest.

307. *Profits.* Of four manufacturers accounting for about 90 per cent. of the value of R.F.M.A. members' sales of rubber boots, Dunlop's rate of profit in the three years 1952-54 was in no year the highest*. It corresponded almost exactly with the weighted average of the other three manufacturers in 1952 and 1953, but was noticeably below their weighted average in 1954. On canvas footwear Dunlop like most other R.F.M.A. members made a loss in all three years. In our view Dunlop cannot be said to have made excessive profits on rubber footwear.

308. *Conclusion.* We have dealt earlier in this chapter with the practices of the R.F.M.A. to which Dunlop is a party. We do not find that otherwise than as a member of the R.F.M.A. Dunlop does, as a result of or for the purpose of preserving its "monopoly" position, anything which operates, or may be expected to operate, against the public interest.

IV. PRACTICES RELATING TO IMPORTS FROM HONG KONG

309. The practices and arrangements relating to imports from Hong Kong which we have to consider with regard to the public interest are as follows:—

- (1) *The reciprocal agreements.* The importers comprising the Association of Hong Kong Rubber Footwear Importers obtain, by agreement, rubber footwear from Hong Kong exclusively through members of the Association of Hong Kong Rubber Footwear Exporters, who for their part export Hong Kong rubber footwear exclusively to the members of the importers' association in the United Kingdom. By another exclusive agreement the members of the exporters' association have until recently obtained their supplies only from the four manufacturers in the Hong Kong Rubber Manufacturers' Association.
- (2) *Admission of members.* The Association of Hong Kong Rubber Footwear Importers admit as new members only importers who are able to buy Hong Kong rubber footwear from members of the Association of Hong Kong Rubber Footwear Exporters, and who have experience of the footwear trade. The Association of Hong Kong Rubber Footwear Exporters are consulted before the importers' association approve an application for membership.
- (3) *Sales to distributors.* There is an understanding among members of the Association of Hong Kong Rubber Footwear Importers to sell only to wholesalers and to multiple retailers with six or more shops.

* See paragraph 221.

The reciprocal agreements

310. We are told by the importers' association that the main object of the reciprocal agreements when they were made in 1941 was "to avoid post-war price cutting", and that the object is now "merely the offering of footwear which carries a reasonable guarantee". Though there is no written guarantee there is an understanding that, subject to fair wear and tear, replacement or credit will be given for unsatisfactory goods. (This is effected through the importers' opposite number in the exporters' association.) The importers' association also tell us that their arrangements ensure that their supplies are obtained from Hong Kong manufacturers who know how to compile the detailed costings required by the United Kingdom Customs to establish the 50 per cent. proportion of Empire labour and materials entitling the imported rubber footwear to Imperial Preference.

311. Of the total United Kingdom sales in 1954 of Hong Kong rubber footwear, members of the importers' association accounted for 51 per cent. in quantity (14 million pairs) and 57 per cent. in value (£655,000) of the rubber boots and 66 per cent. in both quantity and value of the canvas footwear (4.3 million pairs at £918,000). The effect of the reciprocal agreements is that members of the Hong Kong Rubber Footwear Importers' Association are virtually the only traders in the United Kingdom who can buy rubber footwear made by the four firms in the Hong Kong Rubber Manufacturers' Association. We understand that it has occasionally been sold to importers outside the importers' association but this has been in breach of the agreements. These four manufacturers are, we are told, among the more important Hong Kong firms making rubber footwear of a quality high enough for the United Kingdom market. One sells his entire output to one of the larger members of the importers' association, through a member of the exporters' association in Hong Kong. Other members of the importers' association have therefore been dependent for Hong Kong rubber footwear on three manufacturers only. Lately, however, members of the exporters' association have, with the permission of their association in each case, been allowed to buy from manufacturers who are not party to the agreement, when participating manufacturers could not meet their requirements.

312. Originally six manufacturers were party to the agreement but two have withdrawn. Of these two, one effects all his United Kingdom sales through an importer who is the second largest importer in the United Kingdom and is not a member of the importers' association. The other importers outside the Association (there were 29 of them in 1954) can obtain supplies from the second of these manufacturers or from another dozen manufacturers, some of substantial capacity, who are engaged in the United Kingdom trade. In the past, the goods of certain non-Association manufacturers have been found to be unreliable. Nevertheless, imports of rubber footwear from Hong Kong are increasing, and competition in price between members of the Association themselves and between them and other importers is keen. Some of the independent importers have found competition so keen, they say, as to make the trade almost unprofitable.

313. The evidence of the Hong Kong Government is that the manufacturers' and exporters' associations in Hong Kong have been successful in maintaining standards of quality. We can appreciate that since not all manufacturers in Hong Kong are regarded by importers and distributors as producing rubber footwear of a quality suitable for the United Kingdom market, these arrangements between firms of standing in the United Kingdom and in the Colony help to ensure that the footwear which reaches the United Kingdom is known to be reliable. Other evidence which we have received shows that Hong Kong rubber footwear, though on the whole not equal to the United Kingdom

product, is better than it was before the war and is generally regarded as good value at the price.

Admission of members

314. The Association of Hong Kong Rubber Footwear Importers tell us that they are reluctant to admit new members unless more Hong Kong manufacturers participate in the reciprocal agreements and so make more supplies available. To enter the importers' association a trader must find a supplier in Hong Kong who is a member of the exporters' association or who can gain admission to it. In the past this has not been easy because the production of the four Hong Kong manufacturers within the arrangements has been insufficient for the needs of the existing members of the exporters' association. As has been mentioned in paragraph 311, the exporters' association are now allowing their members to obtain supplies from other manufacturers in special cases. We are told also that they are trying to persuade other manufacturers to join the arrangements. It seems, however, that they have had little success and we understand that there is a rival manufacturers' association in the Colony. We have no evidence to show that as a result of this relaxation of the arrangements by the exporters' association admission to that association has become any easier.

315. The importers' association insist that new members must be experienced in the footwear trade. They indicate that inexperienced importers may place upon the market footwear of types which would discredit the Hong Kong rubber footwear trade. Inexperienced importers will also be unable to ensure replacement or credit for goods which have prematurely failed.

Sales to distributors

316. Members of the importers' association have an understanding that they will market their imports only through wholesalers and multiple retailers with six or more shops. They tell us that the practice is not supported by any sanction, but that the wholesale associations expect suppliers to sell through this channel. The wholesaler, they say, has to buy Hong Kong footwear six months before it is delivered to him, and could not be expected to take this risk if importers sold direct to the retail trade.

317. There have been discussions between the Association of Hong Kong Rubber Footwear Importers and the Wholesale Footwear Distributors' Association about compiling a list of traders to whom members of the importers' association would confine supplies. The importers say that they see no advantage in such a list but would not object to it if it included the traders whom they wanted. There have also been discussions with the W.F.D.A. about the possibility of introducing a trade mark for the goods imported by members of the importers' association, the idea being that the W.F.D.A. would encourage their own members to buy only Hong Kong rubber footwear which bore this mark. We are informed that the discussions have not resulted either in an agreed list of traders or in an association trade mark.

Conclusions

318. With the exception of the understanding about importers' sales to distributors which we discuss below, the practices of the importers' association are inter-connected with the reciprocal agreement between the associations of exporters and manufacturers in Hong Kong under which all rubber footwear made for the United Kingdom market by the participating manufacturers is sold only through the participating exporters. It would not have been practicable for us to make a detailed investigation into the position in Hong

Kong itself, and we are satisfied that this was not necessary in order to enable us to reach our conclusions. There is no doubt that the arrangements between the two Hong Kong associations and the importers' association in London restrict competition, but we have had no evidence to suggest that they have limited supplies to the United Kingdom or operated to the disadvantage of the United Kingdom consumer by keeping prices artificially high, or in any other way. In 1954 a third of the canvas footwear and nearly half the rubber boots from Hong Kong were handled by importers outside the Association. There are at least two, and probably more, good-quality Hong Kong manufacturers outside the reciprocal arrangements. Though one of these two is in practice tied to one large importer, the importers who buy from the other have had no difficulty in obtaining supplies. Imports from Hong Kong are increasing, and the evidence is that Hong Kong suppliers are keenly competitive. There is some reason for thinking that the arrangements of the importers' association have helped to maintain and improve quality. We think that the competition from Hong Kong imports acts as a check upon the R.F.M.A.'s prices and provides some stimulus to efficiency on the part of R.F.M.A. members. In these circumstances we do not find that on balance the arrangements of the importers' association and their restrictions on the admission of new members, as they work at present, operate or may be expected to operate against the public interest, and we do not have to satisfy ourselves that they are positively in the public interest. But if the scope of the reciprocal agreements was greatly extended, we consider that the position ought to be re-examined.

319. We see possible objections to the understanding among members of the importers' association to sell only to wholesalers or multiple retailers with at least six shops; this practice appears to be a concession to the organized wholesalers. It may well be that in the conditions of this trade the individual importers would in any case deal exclusively or mainly with the wholesalers and the larger multiple retailers, but a collective understanding which restricts the individual importer's freedom to market his footwear through whatever channel suits his business best, seems to us open to question. We note, however, that in this particular case the practice is not enforced by any sanction, that there is substantial competition from other importers, and that there is no limitation upon the wholesalers who may be supplied. We have had no evidence either that retailers are dissatisfied or that in practice the consumer has suffered. For all these reasons, we do not find that the present understanding operates against the public interest. But we would see serious objection to the introduction of an exclusive list of traders, or to any understanding by traders to buy Hong Kong rubber footwear exclusively from members of the importers' association.

V. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

320. Our conclusions and recommendations may be summarized as follows:—

(a) *Practices in the Rubber Footwear Manufacturers' Association*

- (1) *Price consultation and uniform prices.* The R.F.M.A.'s price consultations and the understanding among members not to negotiate special prices with traders for large orders without notifying each other, operate and may be expected to operate against the public interest (paragraph 284). R.F.M.A. members should cease to consult one another about prices of either rubber boots or canvas footwear, and they should be free to negotiate special prices with traders for large orders without notifying each other (paragraph 285).

- (2) *Understanding on seasonal prices.* The understanding between R.F.M.A. members not to change their prices during the currency of a season operates and may be expected to operate against the public interest. This understanding should be discontinued for future seasons (paragraph 287).
- (3) *Compensation to traders at price reductions.* If effect were again to be given to the understanding between R.F.M.A. members to allow compensation to traders in accordance with a uniform practice when prices are reduced, it might be expected to operate against the public interest, and it should not be revived (paragraph 290).
- (4) *Uniform terms for prompt payment.* Provided that the R.F.M.A.'s price consultations are discontinued we do not consider that their uniform terms for prompt payment may be expected to operate against the public interest (paragraph 292).
- (5) *Resale price maintenance.* We do not consider that the maintenance of resale prices of rubber footwear by R.F.M.A. members, in the manner and to the extent that they maintain them at present, operates or may be expected to operate against the public interest (paragraph 295).
- (6) *The Classified List of Traders entitled to wholesale prices and terms.* The Classified List operates and may be expected to operate against the public interest (paragraph 301). The list, along with the arrangements for administering it, should be discontinued, but we should see no objection if the R.F.M.A. circulated to members a recommended list of traders suitable for wholesale terms, provided that the Association did not consult the distributive trade in compiling it and made it clear that members were under no obligation to observe it (paragraph 302).
- (7) *Users' terms.* The collective selection by the R.F.M.A. of users entitled to special terms operates and may be expected to operate against the public interest. These arrangements should be discontinued (paragraph 305).

(b) *The Dunlop Rubber Company Ltd.*

We do not find that otherwise than as a member of the R.F.M.A. Dunlop does, as a result of or for the purpose of preserving its "monopoly" position, anything which operates or may be expected to operate against the public interest (paragraph 308).

(c) *Practices relating to imports from Hong Kong*

- (1) *The reciprocal agreements.* We do not find that the existing arrangements between the Association of Hong Kong Rubber Footwear Importers and certain exporters and the Association's restrictions on the admission of new members operate or may be expected to operate against the public interest. But if the scope of the reciprocal agreements were greatly extended the position should be re-examined (paragraph 318).
- (2) *Sales to distributors.* We do not find that in present circumstances the understanding among members of the importers' association to sell only to wholesalers and multiple retailers with at least six shops operates against the public interest. But we would see serious

objection to the introduction of an exclusive list of traders, or to any understanding by traders to buy Hong Kong rubber footwear exclusively from members of the importers' association (paragraph 319).

DAVID CAIRNS (*Chairman*)

G. C. ALLEN

W. GAVIN CULLEN

BRIAN DAVIDSON

C. N. GALLIE

C. H. P. GIFFORD

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GORDON STOTT

J. A. R. PIMLOTT (*Secretary*)

4th May, 1956.