

serve this purpose. Imperial rejected the proposal on the ground that it would not be in the interests of the trade for the company to join the Federation, a view with which both Gallaher and Godfrey Phillips concurred. In the same year the Tobacco Distributors' Advisory Committee, which had not met since 1949, was formally wound up. The T.A.C. continued in being until the post of Tobacco Adviser to the Board of Trade was abolished in May 1958; it then ceased to exist as an officially appointed body, but a committee of the same name has been maintained by the leading manufacturers with the former Tobacco Adviser as its independent Chairman.

CHAPTER 3. THE IMPERIAL TOBACCO COMPANY (OF GREAT BRITAIN AND IRELAND) LIMITED

(1) FORMATION

100. Imperial was incorporated as a public company in December 1901 "to acquire and take over as going concerns certain of the principal tobacco manufacturing concerns in the United Kingdom . . .". The new company had an authorised capital of £15 million divided equally into preference, preferred ordinary and deferred ordinary shares of £1 each. It was formed to acquire thirteen tobacco manufacturers, namely:—

W. D. & H.O. Wills Ltd.	..	..	..	Bristol
Franklyn, Davey & Co. . .	..	..	..	Bristol
Edwards, Ringer & Bigg Ltd.	..	..	..	Bristol
Lambert & Butler Ltd. . .	..	..	..	London
Hignett's Tobacco Co. Ltd.	..	..	..	London
Adkin & Sons . . . . .	..	..	..	London
Hignett Bros. & Co. Ltd.	..	..	..	Liverpool
William Clarke & Son Ltd.	..	..	..	Liverpool
The Richmond Cavendish Co. Ltd.	..	..	..	Liverpool
Stephen Mitchell & Son . .	..	..	..	Glasgow
F. & J. Smith . . . . .	..	..	..	Glasgow
D. & J. Macdonald . . . .	..	..	..	Glasgow
John Player & Sons Ltd.	..	..	..	Nottingham

The purchase price of the thirteen concerns amounted to £11,957,000, including goodwill, land, buildings and stocks. Of this sum, W. D. & H. O. Wills Ltd. accounted for £6,992,000, Lambert & Butler Ltd. for £754,000, Stephen Mitchell & Son for £701,000 and John Player & Sons Ltd. for £601,000. Early in 1902 three more manufacturers (W. A. & A. C. Churchman of Ipswich, W. T. Davies & Sons and W. Williams & Co. of Chester,* and W. & F. Faulkner Ltd. of London) were acquired. In all cases the greater part of the purchase price was met by the allotment of shares in Imperial. Most of the sixteen concerns were old-established family businesses, so that the share capital of Imperial was originally held almost entirely by members of those families. Preference shares carried only limited voting rights and before 1918 no ordinary shares could be

* W. T. Davies & Sons and W. Williams & Co. had already amalgamated in 1895.

allotted except in part payment of purchase money to vendors. In 1901, when the company was incorporated, members of the Wills family held nearly 68 per cent. of the issued ordinary share capital.*

101. On purchase by Imperial the sixteen concerns, and subsequently Ogden's Ltd. (see paragraphs 102 and 103 below), became branches of the company; they remained separate producing and selling units but had no legal entity of their own. With one exception (The Richmond Cavendish Co. Ltd., which was concerned with tobacco only) all were at the time producing both cigarettes and tobacco. The board of directors of Imperial was elected from the directors and partners of the constituent businesses: in many cases the directors became branch managers.

102. Imperial has told us that the formation of the company "was directly connected with the purchase by the American Tobacco Company of the business of Ogden's of Liverpool in September 1901" and that American Tobacco had approached other concerns, including Player. Imperial has quoted statements by the Chairman of Ogden's made at a meeting of stockholders called to discuss American Tobacco's offer to purchase the company, in which he referred to the American company's intention of making available a sum of £6 million to capture the English and European tobacco trade and said that it would not be a matter of great concern to the new shareholders whether the Ogden business paid a dividend for the next three to five years. Imperial adds that the aggressive selling methods foreshadowed by the Chairman of Ogden's were quickly put into effect: the prices of some Ogden and American Tobacco brands were substantially reduced, heavy advertising expenditure was incurred, and gift coupon schemes were introduced for certain Ogden brands. As a result of these policies, in the period 1st December, 1901 to 30th September, 1902, Ogden's incurred a net loss of £376,000 on sales amounting to £1,850,000. Meanwhile, Imperial itself began to explore the possibility of entering the United States market and in May 1902 representatives of the company visited the United States to investigate whether a suitable interest could be acquired there. It was against this background that Imperial and American Tobacco began negotiations with one another and reached agreement.

103. On 27th September, 1902, Imperial entered into two agreements with American Tobacco and other companies associated with it. The first of these agreements provided that Imperial should purchase (subject to certain conditions and with minor reservations) the business of American Tobacco's United Kingdom subsidiary, Ogden's.† The second agreement provided for the transfer of the export and overseas trade of both Imperial and American Tobacco to a new company to be formed in the United Kingdom, the British-American Tobacco Co. Ltd. As a result of these arrangements:

- (i) American Tobacco withdrew from the United Kingdom market‡ and undertook not to re-enter it and Imperial agreed not to enter the United States market.
- (ii) Each of the two companies acquired the trading rights in the other's brands in its own home market, including the right to use the respective trade marks.

* In 1911 the Wills family still held 55 per cent. of the issued ordinary share capital, but the family had ceased to hold a majority interest by 1918.

† The purchase price was met partly by the allotment of shares (including 1,500,000 ordinary shares) and debenture stock in Imperial, and partly in cash.

‡ Including what is now the Irish Republic.

- (iii) Except as provided for in (ii) the two companies agreed not to engage in exports except through B.A.T. and B.A.T. became entitled to purchase at a price not exceeding cost any export business afterwards acquired by either Imperial or American Tobacco, any shares in foreign companies* which might be acquired by either, and the export business and the assets employed in such business of any company the direct or indirect control of which might be acquired by either Imperial or American Tobacco.
- (iv) Imperial was allotted one-third and American Tobacco two-thirds of B.A.T.'s equity capital. Both appointed directors to the board.
- (v) B.A.T. was bound not to trade in the United Kingdom or United States markets.
- (vi) American Tobacco acquired (through the sale of Ogden's) a substantial minority interest in Imperial and the right to nominate three directors to the board.

104. In 1911 under a decree of the United States Supreme Court (see paragraph 54) American Tobacco's interests in Imperial and in B.A.T. were sold or distributed to its stockholders and the successor companies of American Tobacco became free to export to the United Kingdom. A list was compiled of Imperial brands which American Tobacco had regularly sold in the United States between 1902 and 1911 and the new American Tobacco Company acquired the trading rights in the listed brands in the United States: Imperial was left free to sell in the United States any of its brands not on the list. The arrangement between Imperial and B.A.T. remained unchanged. In 1960 Imperial held £13,557,389 ordinary stock in B.A.T. out of a total issued ordinary capital of £47,515,522. The President and Chairman of Imperial are directors of B.A.T. Arising from the 1902 arrangements, B.A.T. owns the rights to Imperial brands outside the United Kingdom, the Irish Republic and the United States of America. The two companies have had certain other interests in common. Up to the present they have jointly controlled the Ardath Tobacco Co. Ltd. (see Chapter 4) and they have, or have had, common interests in certain companies making packaging materials (see paragraphs 135 and 139) and machinery (see Chapters 9 and 10).

105. Since 1901 Imperial has, as indicated in Chapter 2, expanded its interests in tobacco and cigarette manufacture, in the manufacture and supply of materials and in distribution. We describe these interests more fully later in this chapter and in Chapter 4; we describe the company's interests in machinery manufacture in Chapter 10.†

(2) CAPITAL STRUCTURE

106. Imperial's present share capital is made up as follows:—

<i>Class of Stock</i>	<i>Authorised</i>	<i>Issued</i>
	<i>£</i>	<i>£</i>
"A" 5½ % Cumulative Preference	6,000,000	4,959,249
"B" 6 % Non-Cumulative Preference	6,000,000	5,260,469
"C" 10 % Non-Cumulative Preference	3,000,000	2,638,218
Ordinary	70,000,000	60,100,880

* That is, companies incorporated in countries foreign to both the United Kingdom and the United States.

† In addition Imperial has interests in tobacco warehousing, nicotine manufacture and the production of cigar tobacco.

In 1957 there were 185,000 ordinary stockholders and the largest single holding represented under 2 per cent. of all stock in the class. The company has a loan capital of £55 million, as follows:—

	£
3½ % Notes, 1965	15,000,000
4 % Unsecured Loan Stock 1960/70	20,000,000
4 % Unsecured Loan Stock 1975/80	20,000,000

Particulars of changes in the company's capital structure since 1901 are given in Appendix 3.

(3) BOARD OF DIRECTORS AND EXECUTIVE COMMITTEE

107. The present board consists of thirty directors, seventeen of whom are engaged full-time in the business, in most cases either as members of the Executive Committee (see paragraph 108), or in the management of the company's branches or subsidiaries, or as chiefs of the various Head Office Departments; eleven of the others were formerly so engaged. By special resolution passed each year the board delegates authority for the central administration of the company to the Executive Committee. The board itself meets six or seven times a year to consider matters of major policy and to receive reports from the Executive Committee.

108. The Executive Committee normally consists of the Chairman and Deputy Chairman of the company and three other directors. It is authorised to exercise all powers of the board except for the sale of the company's undertaking or any part thereof. It holds regular weekly meetings of all members, which generally occupy two days. When the full Committee is not in session individual members are available at all times to consider matters arising in the course of the day-to-day business of the company. Membership of the Executive Committee is a full-time appointment and members have no other current responsibilities. Although individuals may be asked to take a particular interest in certain subjects, no member is assigned specific departmental or branch responsibilities and decisions on all important questions are taken collectively.

109. A number of technical and other special committees have been formed from time to time to consider certain aspects of the company's business.*

(4) HEAD OFFICE DEPARTMENTS

110. Imperial's Head Office is organised in fifteen departments. Of these, the Secretary's Department, with its six sections, is the central administrative department of the company. It is responsible for providing economic and statistical intelligence relevant to the company's business, for prices and related matters, and for submitting to the Executive Committee matters raised by branches, subsidiaries and Head Office departments and later transmitting the Committee's decisions to those concerned. Among the other Head Office departments are those of the Chief Accountant, the Solicitor, and the Chief Engineer (whose responsibilities include the centralised purchase of machinery); the Advertising Department which receives branch proposals for advertising expenditure and submits them to the Executive Committee and which administers

* For example, committees concerned with research, with the technical aspects of such matters as packing materials, cigarette paper and office methods, with relations with Trade Unions, with costing methods.

window dressing (see Chapter 5) and sign maintenance services throughout the country; the Bonus Department which administers the Company's bonus scheme (see Chapter 6); the Leaf Department which is responsible under the direction of the Executive Committee for co-ordinating and placing orders for tobacco leaf to meet the requirements of the branches; the Supply Department which is responsible for the central ordering of cigarette paper and packing and despatching materials; and the Research Department which has wide terms of reference in the field of research and development and which is the largest of the Head Office departments.

111. Imperial undertakes both basic and applied research designed to improve the quality of its products and its methods of manufacture and distribution. Basic research is primarily a function of Head Office through the Research Department, although some activities of other departments including the Chief Engineer's Department are concerned with aspects of research. Applied research is primarily a function of the branches. Imperial carries out tests on samples of leaf withdrawn from bonded warehouse to check the moisture content in relation to Customs regulations and the assessment of duty payable; it also tests samples of its own and other manufacturers' cigarettes and tobaccos and it has developed special testing equipment for these purposes. The company has designed certain machines for use in the tobacco industry, such as automatic weighing scales for tobacco and an attachment to the cigarette making machine for producing filter tipped cigarettes and has co-operated with machinery manufacturers in developing them. The Statistical Section conducts market research and the company's analytical laboratory has undertaken investigations into such matters as the determination of pesticide and fungicide residues in tobacco following the increased use of agricultural chemicals in the cultivation of tobacco leaf. More particularly within the past few years Imperial has undertaken a series of long-term fundamental studies of the chemical and physical properties of tobacco at all stages of growth and manufacture and of tobacco smoke. Imperial's records show that the company has done a great deal to assist the development of the tobacco growing industry in Rhodesia and Nyasaland, and that it has been active in promoting research to improve the quality of African leaf and has been ready to experiment with various types to see if they might be used in the company's products. (See also Imperial's comments in paragraph 431.) Imperial says that its research work as a whole has been of great value in helping it to meet a number of post-war problems, including the technical difficulties resulting from the partial change-over from American to Rhodesian and other leaf from the sterling area (see paragraphs 71-76) and the need to achieve maximum economy in the use of labour and other resources. In the latter connection it says that annual production per operative in manufacturing departments had risen by 42 per cent. between 1947 and 1956, despite a fall of about one hour in the standard working week.

112. Matters coming within the sphere of responsibility of the various Head Office departments, whether originating with them or with the branches or subsidiaries, are submitted to the Executive Committee in periodical departmental reports; these may be submitted at varying intervals, for instance weekly by the Prices Section, fortnightly by the Advertising Department, monthly by the Research Department, quarterly by the Registration Department, and at irregular intervals by the Bonus Department.

(5) THE BRANCHES

113. By the end of 1902 the seventeen tobacco manufacturers acquired by Imperial on or shortly after incorporation were organised in fifteen branches.* Imperial formed a further branch in 1911;† any manufacturing interests acquired in the United Kingdom after this date became not branches but subsidiaries of the company (see paragraph 127).‡ From 1902 onwards there have been numerous mergers between branches, usually because a decline in trade made it impracticable for a branch to continue as a separate unit. The following table shows the numbers of branches operating over the years and indicates the rate and frequency of mergers:—§

Year	No. of Branches	Year	No. of Branches
1901	13	1932	11
1902	15	1946	10
1911	16	1954	9
1918	15	1957	7
1923	13	1959	6
1930	12	1961(a)	4

(a) Projected, see below.

Note: Fuller details are given in Appendix 4.

Of the six branches existing at the end of 1960, five (W. D. & H. O. Wills, John Player & Sons, Edwards, Ringer & Bigg (Ringer), Ogden and W. A. & A. C. Churchman) both manufactured and supplied their own brands of cigarettes and tobacco made to their own formulae, particulars of which are not normally disclosed to other branches. The sixth (Lambert & Butler) manufactured its own brands of cigarettes and tobacco until 1958, since when the cigarette brands have been made on the branch's behalf by the Churchman branch and the tobacco brands by the Ringer branch. Imperial has announced that as from February 1961 the Churchman, Ringer and Lambert & Butler branches are to be amalgamated.

114. The following table shows branch sales over the years expressed as percentages of Imperial's total sales:—

* The company had, in fact, at that time another branch, now Mardon, Son & Hall Ltd., which did not make tobacco products—see paragraph 133.

† Namely the Allan Ramsay branch, formed to take over the trade of Murad Ltd., a subsidiary which had itself been set up the previous year to specialise in Oriental cigarettes.

‡ Three branches were, however, established in the Irish Free State in 1923.

§ In addition to the manufacturing branches the following subsidiaries of Imperial were manufacturing tobacco products at the dates shown:—

	<i>Acquired by Imperial</i>	<i>Ceased manufacturing</i>
The Robert Sinclair Tobacco Co. Ltd. (see paragraph 128) ..	1930	1953
Walters Tobacco Co. Ltd. (see paragraphs 68 and 128) ..	1938	1953
E. & W. Anstie Ltd. (see paragraph 128)	1944	1958

	Percentage of Imperial's total cigarette and tobacco sales by weight				
	Year ended 31st October				
	1905	1920	1938	1956	1959
CIGARETTES	%	%	%	%	%
W. D. & H. O. Wills	24.5	43.1	40.4	40.5	39.7
Stephen Mitchell & Son	1.1	1.3	0.2	neg	—
F. & J. Smith	0.4	0.3	—	—	—
D. & J. MacDonald	0.1	—	—	—	—
John Player & Sons	4.6	17.3	36.6	47.8	47.0
Ogden	2.0	1.6	0.5	neg	neg
Hignett	0.3	0.4	—	—	—
Wm. Clarke & Son	0.1	0.1	—	—	—
W. & F. Faulkner	0.1	0.1	neg	neg	—
Adkin	neg	neg	neg	—	—
W. T. Davies & Sons	neg	neg	neg	—	—
Lambert & Butler	0.5	1.1	0.3	0.2	0.2
W. A. & A. C. Churchman	neg	0.2	6.2	1.1	1.2
Edwards, Ringer & Bigg	neg	0.2	neg	neg	neg
Franklyn, Davey & Co.	neg	0.1	neg	neg	—
Total Cigarettes	33.7	65.8	84.2	89.6	88.1
TOBACCOS					
W. D. & H. O. Wills	8.1	4.3	1.8	2.1	3.5
Stephen Mitchell & Son	5.8	2.7	1.1	0.6	—
F. & J. Smith	3.9	1.5	—	—	—
D. & J. MacDonald	1.1	—	—	—	—
John Player & Sons	3.2	2.9	4.3	1.9	2.4
Ogden	15.3	9.4	4.1	3.0	3.8
Hignett	3.0	0.8	—	—	—
Wm. Clarke & Son	7.6	2.6	—	—	—
W. & F. Faulkner	2.7	1.9	1.5	0.8	—
Adkin	1.7	1.5	0.6	—	—
W. T. Davies & Sons	2.1	0.9	0.2	—	—
Lambert & Butler	4.2	2.4	0.5	0.1	0.1
W. A. & A. C. Churchman	1.4	0.6	0.3	0.1	0.1
Edwards, Ringer & Bigg	3.4	1.3	0.7	1.8	2.0
Franklyn, Davey & Co.	2.8	1.4	0.7	...	—
Total Tobaccos	66.3	34.2	15.8	10.4	11.9
TOTAL IMPERIAL CIGARETTES AND TOBACCOS	100.0	100.0	100.0	100.0	100.0
TOTAL IMPERIAL TRADE IN UNITED KINGDOM IN CIGARETTES AND TOBACCOS—MILLION LB.	47.8	109.8	149.0	189.5	168.3

neg = negligible.

... = not specified.

It will be seen that the branches vary greatly in size, over 90 per cent. of Imperial's trade being in the hands of the two large branches (Player and Wills). The Player branch has increased its proportion of the company's trade from about 8 per cent. in 1905 to about 49 per cent. in 1959. In 1959 the two large branches together employed 17,413 out of the total labour force of 20,356 of the cigarette and tobacco manufacturing branches and subsidiaries.* Wills operate six† factories, of which four make cigarettes only and two make cigarettes and tobacco; Player operates four factories, of which three make cigarettes only and one makes cigarettes and tobacco; Ringer operates two factories and the other two branches which still manufacture each operate one factory.

115. Imperial has told us that "the circumstances under which . . . [the company] was formed have had a profound effect on its organisation. . . The constituent businesses . . . were anxious to retain as much as possible of their individuality" and "there was great emphasis on the highest degree of autonomy consistent with the interests of . . . [the company] as a whole": each branch is "a separate trading entity which maintains its own sales force and customers' accounts; and it has virtually complete autonomy in the day-to-day administration of its manufacturing and selling activities". According to the company the branches operate within a framework of general policy administered by the Executive Committee, which is responsible for the efficient and profitable deployment of the company's resources as a whole; "while this general policy inevitably imposes a considerable degree of control in certain fields, . . . it is . . . firmly based on the cardinal principle that a strongly competitive spirit between the constituent Branches is essential to the Company's well-being". In the paragraphs which follow we describe the branch organisation and the relations existing between individual branches, and between the branches and Head Office, with a view to illustrating the practical extent both of branch autonomy and of inter-branch competition.

116. The position may be summarised by saying that each branch has its own management and is responsible for manufacturing and marketing its own brands,‡ but is required to refer to the Executive Committee (in some cases direct and in others through the appropriate Head Office department) proposals for such matters as major capital expenditure, new brands or alterations in price or specification of existing brands, and advertising grants. Machinery and the main materials for use in manufacture are purchased centrally.

117. The respective responsibilities of branches and Head Office departments on all matters in which the branches are not autonomous are defined in Imperial's Handbook, where the procedure to be followed by branches is laid

* Imperial's total labour force in the United Kingdom comprised:—

Head Office	1,448
Tobacco branches and subsidiaries—excluding factory labour employed directly in the manufacture of cigars and snuff	20,356
Subsidiary companies engaged in the manufacture of paper and board and in printing	6,939
Subsidiary companies engaged in the distribution of tobacco products	1,025
	<hr/>
	29,768

† A seventh Wills factory makes cigars only.

‡ From 1958, however, Lambert & Butler ceased making its own brands—see paragraph 113.

down, often in considerable detail; circulars relating to procedure are also issued by Head Office departments from time to time. Instructions issued by the Chief Accountant's Department, for example, cover such matters as cost accounting, the preparation of accounts, banking arrangements, income tax procedure and insurance of all kinds. Those from the Secretary's Department deal with a number of general administrative matters including staff salary scales (which are fixed by the Executive Committee), press enquiries (requests for permission to publish descriptions of the company's works, for information concerning the company's business or for expressions of opinion on trade questions must be referred to the Secretary) and circulars to customers (which must be forwarded by the branch for approval by the Executive Committee). The Solicitor's Office gives instructions concerning matters such as the grant of credit, guarantees of customers' accounts, the collection of debts, notification of factory accidents, cases of fraud or theft in factories. The Chief Engineer's Department covers expenditure on buildings, land and machinery (expenditure exceeding £500 requires Executive Committee approval), patents and inventions, the security of all drawings and designs. The effects of instructions concerning conditions of sale, window dressing and bonus are considered in Chapters 5 and 6. Instructions concerning advertising and prices are described in greater detail below; in some cases we have given examples based on our examination of Imperial's records for the years 1952 to 1956 to illustrate the way in which the instructions worked out in practice in that period.*

118. The branches work out their own advertising schemes in collaboration with their advertising agents and in most cases place their own contracts; Executive Committee approval is required for all advertising expenditure and payment for most types of advertisement is made by the company's Advertising Manager. The relevant sections of the Handbook give detailed and comprehensive guidance on procedure to be followed. Each branch is required to submit annually to the Executive Committee through the Advertising Manager on the appropriate advertising requisition form an application for a grant to cover all advertising for the following financial year. The particulars to be supplied on this form in respect of each brand include the total amount which it is proposed to spend, broken down to show Head Office departmental expenditure (on press, billposting, television, miscellaneous advertisements, window dressing charges and sign maintenance charges) and branch expenditure (on distribution of advertising material, etc.), the advertising cost per lb. of tobacco or per 1,000 cigarettes (based on estimated sales for the current year), the estimated sales of the brand for the current year and the estimated percentage increase or decrease in sales in the current and following years. If, owing to exceptional circumstances, an existing grant is later found to be insufficient the branch concerned must immediately submit a supplementary requisition.

119. Advertising copy and material must be submitted by branches to the Advertising Manager, who refers it to the Executive Committee in such cases as he considers necessary. From time to time the Executive Committee may give guidance on matters of general advertising policy: it may, for example, discourage a particular type of approach (such as testimonial advertising), or

* The records for these years do not, of course, reflect subsequent changes in the tobacco industry generally or in the company's own organisation. The examples quoted are not necessarily typical of other periods.

object to advertising which links a branch's products with those of a manufacturer of goods such as cigarette paper, or urge a branch to develop a consistent theme for a particular brand. In some cases the company has laid down general rulings which the branches must observe. For example, restrictions were placed on the advertising of tobacco for hand-rolled cigarettes in view of the competition which this type of cigarette offered to the company's more important manufactured cigarette trade. In this connection it was decided in 1950 that branches other than the three main cigarette branches (Wills, Player, Churchman) might use such phrases as "For Pipe and Cigarette" in descriptions on the packet and in van and shop advertising, but not in press advertisements; there were to be no pictorial representations of hand-rolling and no reference to economy. In 1954, when competition had intensified and the advertisements of other manufacturers were beginning to feature hand-rolling, the ruling was relaxed to allow the smaller branches to describe their brands in all types of advertisements as suitable for hand-rolling; the ban on the mention of economy remained. A proposal by Wills and Player in 1956 that, in view of Gallaher's competition, they should be allowed to describe their cigarette tobaccos as suitable for hand-rolling was rejected on the grounds that this would be more likely to have an adverse effect on the sales of Ringer's A.1. Light* than on those of Gallaher's Old Holborn,* and that it was not in the company's interests to encourage the smoking of hand-rolled rather than manufactured cigarettes.

120. Another general ruling prohibits the use of the term "filter tipped" in advertising. It was explained in 1954 that the word "filter" inevitably suggested protection, which was not justified, and that "consumption could be affected" if the company did anything to "give the impression that there is in tobacco smoke something which should not be taken into the system". When introducing its Bristol brand in 1954 Wills was not allowed to mention the price advantage offered by a filter tipped brand, but in 1956 Lambert & Butler was told that there would be "no objection whatever" to emphasising the economy aspect in advertising. Until 1959 it was also a company rule that a tobacco or cigarette packing must not bear the word "Virginia" unless the brand in question was manufactured exclusively from tobacco grown in Virginia, North or South Carolina, Georgia or Florida.† The company was reluctant to relax this rule even when Gallaher was reported to be making freer use of the word. A ban on the use of superlatives in the company's advertisements was lifted in 1956 when Wills represented that some relaxation was necessary in view of "the present intense competition" in the market for small cigarettes and submitted examples of the use of superlatives in the slogans of other manufacturers.

121. Regulations laid down by the Executive Committee apply to virtually all forms of indoor and outdoor advertising and the numerous branch requests for exemption from the various regulations are referred to the Executive Committee. Thus, for example, neon signs may not be erected on tobacco traders' premises; this rule has been strictly enforced even where the branch concerned

* Both brands are primarily intended for hand-rolling.

† In November 1959 the Tobacco Advisory Committee (see paragraph 99) issued a statement giving its opinion that any flue-cured tobacco derived from Virginia-type seed, wherever grown, could properly be described as "Virginia". The statement explained that the production of flue-cured tobacco had been developed during the present century in many countries of the world and that the description "Virginia" was now commonly used throughout the world to apply to flue-cured leaf. Imperial revised its own rulings to conform with the view expressed by the T.A.C.

felt that it gave Gallaher an advantage. Illuminated signs issued for traders' premises should be "of a stock nature". In approving a proposal by Player to supply eighteen special illuminated box signs the Executive Committee pointed out that this was "making a rather large exception" as the Player sign cost about twice as much as a stock sign. On another occasion Player was not to be allowed to adapt some of its illuminated signs in order to advertise one of its brands of tobacco because "smaller Branches would not be able to afford similar advertising". A request for permission to supply a glass window pelmet for display inside a trader's premises was refused because the Executive Committee was not prepared to waive a rule prohibiting the supply of expensive permanent advertisements; permission was also refused for Ringer to order counter stands in the form of "illuminated giant packets of 'A.I.' Light Tobacco complete with flashing light", as this would be a bad precedent and might encourage other manufacturers to retaliate with "bigger and better signs". A company rule prohibits the payment of rent for advertisements fixed on the customers' premises (see paragraph 235).

122. Head Office control is equally close in other matters affecting the prices and costs of the company's products. Each branch issues its own price list, but all grant the same terms to distributors except that the smaller branches grant quantity allowances and free carriage on smaller quantities than do the two large branches (see paragraphs 199 and 200). The branches are required to keep operation books covering all articles manufactured by them. These books contain standard forms on which the branches show (normally on the basis of an "operation"* of 100 lb. weight of leaf) the leaf formulae, and details of production, packing materials used, labour, despatching expenses, direct costs and margins towards charges. The Handbook lays down instructions for calculating on a uniform basis the various particulars to be entered; operation books are to be completely re-written each year (and following any change in duty) and are audited periodically by the Prices Section. Branches are enjoined to keep a constant watch on their monthly gross profits and operation book margins, which should be calculated on a comparable basis. Proposals for changes in the formula of a brand must be submitted to the Prices Section. No changes in the weights or dimensions of cigarettes may be made without reference to the Executive Committee, and proposals for such changes, with details (including the effect on the margin), must be sent to the Prices Section. Branches must supply the Prices Section each half year with a list of the average weights of "rag"† per thousand cigarettes (calculated by a prescribed method) for certain specified cigarette brands and must comment on any substantial variations from the standard weight, indicating whether the excess or deficiency is likely to continue.

123. New brands are normally introduced on the initiative of individual branches, but proposals from the branches for new brands, for re-introducing former brands or for alterations to existing brands must be approved by the Executive Committee. In each case of a new introduction or a re-introduction particulars must be given as to the direct cost, the gross margin, the distributors'

* An "operation" is the name given to a quantity of tobacco, normally consisting of several grades, weighed out in the factory leaf room for the manufacture of a given article. An operation retains its identity up to the time when it goes to the store or cigarette room, although during the process it may have had stem, etc. taken out or added to it and offal extracted from it (see paragraphs 15-22).

† See paragraph 19.

terms and retail price, the design of the label, the advertising grant required, estimated sales, and (where appropriate) the dimensions of cigarette packings, together with a sample of the proposed article and an indication of machinery requirements.

124. In 1960 Imperial was making over 50 brands of cigarettes and nearly 200 brands of proprietary tobaccos as well as many loose tobaccos. Since 1905 the company's five leading brands have always accounted for at least 80 per cent. of its cigarette trade. All five are made by the two large branches, namely Woodbine (Wills) and Weights (Player) in the small cigarette class and Player's Medium, Capstan (Wills) and Gold Flake (Wills) in the medium class. Sales of Gold Flake have fallen away, but in 1956 the other four brands accounted for 95 per cent. of Imperial's cigarette trade, or about 84 per cent. of the company's total trade in cigarettes and tobacco. None of the small branches has succeeded in establishing a leading cigarette brand in either of the popular classes. All the branches make a number of brands many of which, particularly in the case of tobacco brands, have only small sales and some only regional sales. The Wills and Player branches, and in more recent years the Churchman branch, have been increasingly concerned with cigarettes, though continuing to produce many brands of tobacco. The Ogden and Ringer branches have been primarily concerned with tobacco, as were many of the branches whose interests have now been merged with those of existing branches; these branches have necessarily been adversely affected by the change in public taste from pipe to cigarette smoking (see paragraphs 56, 69, 82 and 97).

125. We have shown that in many matters the branches are subject to Head Office control and to a uniform procedure. Our examination of Imperial's records shows that in administering these matters the Executive Committee is concerned with a great number of issues, some of them involving very considerable attention to detail. It is equally clear, however, that in those fields in which they exercise autonomy, the branches regard themselves as being in competition with one another. We have already shown that in most cases the branches have not maintained their original position within Imperial (see paragraph 114). The pattern follows that of the industry as a whole in that branches relying mainly on tobacco manufacture have declined, but this does not account for the success of the Player branch over the years and Imperial has pointed to Player as an illustration of the reality and effectiveness of competition between branches. There are differences between Imperial branches in size, operating conditions, manufacturing technique and efficiency and therefore in manufacturing costs.

126. As examples of these differences we note from the company's records that in a table compiled in May 1956 for the Executive Committee showing total man-hours per million hypothetical standardised Class "X" cigarettes for each of the company's factories, the lowest figure (178.0) was for a Wills factory and the highest (345.1) for Lambert & Butler; two Player factories (185.1) had the next best result to Wills. Player's output per man-hour improved steadily between 1952 and 1955 and Wills' improvement in the same period was almost as consistent; the figures for the other branches showed more fluctuation over the period and in several cases the output per man-hour was reduced by a drop in production following a falling off in demand for the branch's products. In 1951 Lambert & Butler told the Executive Committee that the branch's output per man-hour remained "well below the Company standard" mainly on account of the "unsuitability" of its factory building; in 1952 a member of

the Executive Committee described the Ringer factory as "very inconvenient" and "with the present volume of trade, over crowded"; in 1955 E. & W. Anstie Ltd. (Anstie) (a subsidiary, not a branch, see paragraph 127), whose cigarette trade had declined sharply, said the company realised that it could not undertake manufacture on behalf of any of the branches in view of its "somewhat primitive methods". Player, which claimed in 1953 to have "improved the consistency of the blend in the finished product" by "improvements in mechanical mixing", was reluctant to allow small branches to undertake manufacture for it "on grounds of the lack of technique and special plant, e.g., for blending, peculiar to Players"; in 1955 the branch was prepared to consider allowing Wills to help it out in the manufacture of Player's Medium, but only "provided the layout and control was in Player's hands". Wills is reported to have "reacted unfavourably" to a suggestion that Churchman should manufacture some Woodbine for it in 1955. Of the three small branches which undertook manufacture of Weights, Churchman, which had to reorganise production to achieve uniformity with Player, particularly on the preliminary processing side, found that "considerably more labour is required to manufacture 'Weights' than any Churchman cigarette operation", while Ogden reported that the manufacture had entailed special arrangements in the factory, including "modifications to the Rotary Mixing Roller to enable Player's method of blending, liquoring and casing to be adopted".* Commenting on some of the examples given above the company acknowledges that two or three of its older factories have not lent themselves to modernisation, but in general claims that the great majority have a very high degree of manufacturing efficiency. We deal further with differences in manufacturing costs as between branches and factories in paragraphs 364 to 373.

(6) SUBSIDIARIES OF IMPERIAL FORMERLY MANUFACTURING TOBACCO GOODS

127. In addition to the tobacco manufacturing interests acquired in 1901 and 1902, which became branches of the company, Imperial has acquired over the years three subsidiary companies engaged wholly or in part in tobacco manufacture,† namely the Robert Sinclair Tobacco Co. Ltd. (Robert Sinclair), the Walters Tobacco Co. Ltd. and E. & W. Anstie Ltd. None of the three now manufactures.

128. Imperial acquired a controlling interest in Robert Sinclair in 1930; Robert Sinclair is now a wholly owned subsidiary primarily engaged in the wholesale distribution of tobacco goods, confectionery and fancy goods in the North of England and in Scotland. The company ceased manufacture in 1953 (see paragraphs 153–157 below). The circumstances leading to the acquisition of Walters are described in paragraph 68. The company ceased manufacture in 1953. The third company, Anstie, was acquired in 1944 when its directors offered to sell the business to Imperial. Imperial has said that the principal reasons for the offer were the advanced age and failing health of members of the Anstie family, who were the largest shareholders, and their desire to provide for the future of their workpeople. Imperial purchased the greater part of the

* The years immediately following relaxation of control of tobacco leaf (see Chapter 2) created abnormal conditions; it is not usual for one branch to manufacture on behalf of another except where it takes over the entire manufacture of that branch's products.

† A fourth concern, Joseph and Henry Wilson Ltd., acquired in 1953, was and is wholly concerned with snuff manufacture.

shares and has since acquired virtually all of them. Until it ceased manufacturing Anstie was managed by the Ringer branch. Imperial's records show that in 1956 the Executive Committee agreed that Ringer should for the time being maintain production at the Anstie factory: the branch wished to do this "on sentimental grounds" although it realised that the factory would almost certainly incur a financial loss. Anstie ceased manufacture in October 1958; the company's brands and goodwill were then transferred to the Ringer branch which became directly responsible for manufacture at Anstie's factory at Devizes and for the sale of Anstie brands.

(7) OVERSEAS LEAF BUYING ORGANISATIONS

129. Imperial has its own leaf buying and handling organisations in the United States, Canada, Southern Rhodesia and Nyasaland which are responsible, under the direction of the Leaf Department (see paragraph 110), for the purchase of the company's leaf requirements in those countries and for the packing and shipment of such purchases. The organisation in the United States (with headquarters in Richmond, Virginia) was set up in 1902, very soon after the formation of Imperial; the constituent manufacturers had previously, with the exception of one of the smaller concerns, bought from leaf merchants in the United Kingdom. Imperial has now twelve leaf handling factories in the United States in the main districts where leaf is sold at auction, besides docks and transit sheds at Norfolk, Virginia. The Canadian leaf buying organisation was set up in 1926 and comes under the control of the United States organisation. The African leaf buying organisation originated in 1906 when Imperial sent an expert to investigate leaf buying prospects in Nyasaland. In 1927, as a result of the introduction of Imperial Preference duty rates and of the increase in cigarette smoking, a leaf buying organisation and handling factory was set up in Southern Rhodesia. The African organisation has expanded considerably in recent years, particularly in Southern Rhodesia, and Imperial has acquired and developed forestry estates, primarily to produce timber for casks for shipping tobacco. Imperial does not itself undertake or finance the growing of tobacco required for its trade in cigarettes and tobacco.

(8) SUBSIDIARIES AND ASSOCIATES OF IMPERIAL MAKING MATERIALS AND COMPONENTS USED IN MANUFACTURE AND PACKAGING OF CIGARETTES AND TOBACCO

130. The main materials other than leaf used in the tobacco industry are described in paragraphs 9-14. The most important of these items are cigarette paper, hulls and slides for cigarette cartons and fibreboard packing cases, which together accounted in 1953, for example, for some 90 per cent. of the expenditure of Imperial's Head Office Supply Department. The Supply Department purchases branch requirements of cigarette paper, filter tipping material and packing, parcelling and packaging materials;* branches then deal direct with suppliers on delivery and technical matters. Specifications are settled between the branches and the department. Branches purchase their own requirements of cork tipping material and of starch and dextrine and the Research Department purchases branch requirements of flavouring essences, olive oil, nut arachis oil and acetic acid. By far the greater part of

* For a definition of the terms "packing", "parcelling" and "packaging" see footnote † on page 7.

the more important materials used by the branches is supplied by subsidiary companies of Imperial, namely Mardon, Son & Hall Ltd. (Mardon), St. Anne's Board Mill Co. Ltd. (St. Anne's), Ashton Containers Ltd. (Ashton) and Robert Fletcher & Son Ltd. (Robert Fletcher). It is the company's policy to place at least 90 per cent. of its orders for such materials with its subsidiaries, provided that they can supply the quantities and qualities required. Some materials are not, however, made by subsidiaries and even where they are it is Imperial's practice to place orders for up to 10 per cent. of its requirements with outside concerns, partly because "the prices quoted by outside firms afford a yardstick to the competitiveness of Subsidiary Companies", partly because it gives Imperial access to alternative sources of supply and partly because it helps the branches and the Supply Department to keep in touch with new developments.

131. The subsidiary companies themselves supply other customers besides Imperial, including other tobacco manufacturers. As each customer has his own specifications, prices cannot be readily compared. We are told by Imperial, however, that "as a general rule . . . the profit margins earned by the Subsidiaries, expressed as a percentage on selling prices, are not substantially different as between sales within the . . . [Imperial] group and sales outside it". We have received no criticism from other tobacco manufacturers concerning either the availability of supplies from Imperial's subsidiaries or the prices charged. Alternative sources of supply are in all cases available.

132. The Chief Engineer of Imperial is a director of Mardon; the Manager of the Supply Department is a member of the boards of Ashton and Robert Fletcher, and both he and the Manager of the Research Department are on the board of St. Anne's. The companies are responsible for their own manufacturing and marketing arrangements and for their internal administration. The board of each is responsible to the Executive Committee for the maintenance of the business on an efficient and profitable basis and is required to submit accounts and an annual report on trade to the Committee; each company is also required to obtain approval for major items of capital expenditure and for any proposals which would have repercussions on the Imperial group as a whole.

133. The business of Mardon, colour printers and specialists in the production of packing and parcelling materials, was acquired by Imperial in 1902 and Mardon then became a branch of the company; in 1938 it was made a wholly owned subsidiary to bring its status into line with that of other subsidiaries manufacturing packing materials. In 1953 Mardon acquired a substantial interest in a Canadian printing firm; it also acquired Celloglas Ltd., a British company engaged principally in making printed material laminated with cellulose acetate film. In 1955 Mardon acquired a subsidiary in Southern Rhodesia which specialises in lithographic printing. Mardon continues to supply the bulk of the printed packing materials used by branches; it supplies, *inter alia*, over 90 per cent. of Imperial's requirements for hulls and slides.

134. Imperial's records show that during the years 1952 to 1956 (the only period examined) Mardon was sometimes underquoted by outside suppliers. Imperial has exercised pressure on the company to make its prices more competitive but has told us that "it should be borne in mind that there were a number of reasons, including the destruction by enemy action . . . of a large part of Mardon's production capacity," why the company's prices were uncompetitive at that time. Since, according to Imperial, some 35 per cent. of Mardon's

trade in 1959 was with customers other than Imperial* it may be presumed that, in general, these other customers have been satisfied with the prices paid.

135. St. Anne's was formed in 1913 by Imperial and B.A.T. Before that date almost all supplies of carton board used for cigarette and tobacco packets came from abroad; in forming St. Anne's the two companies wished to lessen their dependence on imports. In 1921 St. Anne's became a wholly owned subsidiary of Imperial. St. Anne's supplies a large proportion of the board used in the Imperial group; it has also a substantial outside trade which accounts for about two-fifths of its total sales. Before 1921 arrangements for the supply of board to Imperial and B.A.T. by St. Anne's were covered by agreements made in 1913 and 1915. Since then there has been no joint policy between Imperial and B.A.T. on the production or supply of board.† Board ultimately required by Imperial is supplied mainly through Mardon (which stamps out the hulls and slides and other containers and prints them) or other printers, although small quantities of board are also supplied direct by St. Anne's to the Player branch which makes some types of boxes itself. In view of the size of its orders, and consequent economies in manufacturing and selling costs, Mardon gets certain price allowances from St. Anne's.‡ Where Imperial places orders with printers other than Mardon, St. Anne's supplies the printers at the normal price charged to other customers and subsequently pays the branches of Imperial a rebate equal to the sum of the allowances that would have been made if the board had been supplied to Mardon. St. Anne's customers also include B.A.T. which receives an allowance on one type of board.§ These allowances have been granted for at least thirty years. The only other price allowance made by St. Anne's is the rebate|| recently granted to Gallaher in view of a considerable increase in the size of that company's orders.

136. Ashton was originally formed by Imperial in 1919 as Ashton Saw Mills Ltd. to supply timber for Imperial's packing case factory. The name was changed in 1937. Ashton, which is a wholly owned subsidiary, now manufactures fibreboard containers and packing cases. In 1921 Imperial's packing case factory was transferred to Ashton. In 1959 41 per cent. of Ashton's trade was with Imperial, 17 per cent. with other tobacco manufacturers, and 42 per cent. with customers in other trades. The company supplies 90 per cent. of Imperial's requirements of fibreboard cases.

137. Robert Fletcher, a wholly owned subsidiary of Imperial, manufactures cigarette paper and other fine tissues and waxed paper. Before 1914 the greater part of Imperial's requirements of cigarette paper came from France. During the 1914-18 war the French mills had difficulty in getting the necessary raw materials and Imperial made an arrangement with Robert Fletcher to manufacture part of the company's requirements. In 1918 Imperial purchased a majority shareholding in Robert Fletcher and in 1935 it acquired the remaining shares. In 1959 paper of types used in the tobacco trade accounted for more

* i.e. about 16 per cent. with other tobacco manufacturers and 19 per cent. with customers outside the tobacco industry.

† There is, however, a regular interchange of packings of principal brands manufactured by the two companies in the United Kingdom so as to achieve similarity as far as this is practicable.

‡ For example, in 1958, on coated board (basic price £92 10s. 0d. per ton) Mardon received an allowance of £10 10s. 0d. per ton, and on Woodbine lined (uncoated) board (basic price £72 15s. 0d. per ton) £2 per ton; certain extra charges for special services, commodities or small quantities are waived in the case of Mardon. The Player branch buys on the same terms as Mardon.

§ i.e. £3 per ton on coated board. The same allowance was given to Ardath,

|| i.e. £1 per ton on coated board.

than 70 per cent. of the company's turnover, three-quarters of this business being with Imperial. Fletcher supplies 90 per cent. of Imperial's requirements of cigarette paper.*

138. Imperial had formerly two other subsidiaries engaged in the manufacture of materials, neither of which is now trading. Of these, Tuebrook Packing Case Co. Ltd. was registered in 1920 to take over the work of the Ogden branch's box making factory. In 1938 the Tuebrook factory was sold and its machinery transferred to Ogden, which again undertook its own box manufacture until Ashton was able to supply all its requirements (see paragraph 136 above). The Tuebrook company was wound up in 1950.

139. The other company, Bristol Tin Case Co. (1920) Ltd., was formed as the Bristol Tin Case Co. Ltd. in 1912 by Imperial, B.A.T. and G. H. Williamson & Son Ltd. to manufacture airtight and other tins. In 1920 Imperial bought the interests of the other two parties and the company was reconstituted. From then until 1931 the greater part of its trade consisted in the manufacture of tins for Imperial's branches. In 1931 Imperial entered into an agreement with the Metal Box Co. Ltd. for the supply of airtight and non-airtight cylindrical tins in lieu of tins previously made and supplied by the Bristol Tin Case Co. (1920) Ltd. This agreement expired in 1936. In 1937 and 1938 Imperial entered into further agreements with Metal Box which gave Imperial exclusive rights in the use for packing tobacco goods of patented tins developed jointly by Imperial and Metal Box; the 1937 agreement also covered the supply of tins of types which had been the subject of the earlier (1931) agreement, but gave Imperial no exclusive rights so far as these types were concerned. Both the later agreements expired in 1952 and were not renewed. Thereafter until 1956 Metal Box continued to supply rectangular tins exclusively to Imperial as far as the tobacco trade was concerned; in 1956 Metal Box modified the design of the tin and, with the agreement of Imperial, thereafter supplied it freely to all purchasers. Meanwhile the Bristol Tin Case Co. (1920) Ltd. had been wound up in 1950.

140. In one other case Imperial has entered into preferential arrangements with an outside manufacturer for the supply of materials. In 1947, anticipating the end of Government restrictions on the use of certain packaging materials, Imperial entered into an agreement with British Rayophane Ltd., makers of cellulose film, under which Imperial purchased £100,000 cumulative preference shares in the company and undertook to purchase from it not less than 25 per cent. of its requirements of viscose transparent wrapping material. British Rayophane was required to supply at a contract price (provided the price so obtained did not exceed that of other manufacturers) and, after making allowance for Board of Trade allocations, to give Imperial preference for the execution of its orders up to a specified volume. The agreement remains in force so long as Imperial retains its financial interest, provided that British Rayophane continues to be able to supply film of a type suitable for Imperial's requirements. British Rayophane has told us that the proportion of its output committed to supplies to Imperial is a decreasing one, and that in its view the agreement has provided an incentive to the company to increase its productivity.

* Fletcher is one of the two sources of supply of cigarette paper in the United Kingdom, the other being Cromptons (Stubbins) Ltd., a wholly owned subsidiary of B.A.T. (Another United Kingdom manufacturer stopped production in 1950.) Tobacco manufacturers in this country also buy cigarette paper from France and Imperial obtains the balance of its requirements from this source. Imported cigarette paper is liable to a duty of 16½ per cent.

(9) SUBSIDIARIES AND ASSOCIATES OF IMPERIAL ENGAGED
IN THE DISTRIBUTION OF TOBACCO GOODS

141. Since its formation Imperial has acquired interests in both the wholesale and the retail distribution of tobacco goods through its ownership of Robert Sinclair and Bewlay (Tobacconists) Ltd. (formerly Salmon & Gluckstein Ltd.) and its substantial shareholding in Finlay & Co. Ltd.

142. Imperial acquired a controlling interest in Salmon & Gluckstein Ltd., retail tobacconists, in 1902. The company was then operating 140 shops in London and the provinces and was manufacturing in a small way. Under the terms of the acquisition Salmon & Gluckstein increased its authorised capital from £500,000 (£450,000 of which had been issued) to £600,000 by the creation of 100,000 deferred shares of £1 each and adopted new Articles of Association. These provided that the original 500,000 shares should become preference shares entitled to a fixed cumulative preferential dividend of 10 per cent. per annum without voting powers and that the deferred shares should carry voting rights and the right to any surplus profits. Imperial agreed to subscribe at par for the whole of the deferred shares and at the same time to guarantee that the profits of Salmon & Gluckstein should be sufficient for the payment of the 10 per cent. preference dividend.

143. In the same year Imperial acquired A. I. Jones & Co. Ltd., owner of a chain of retail tobacconists' shops; the company had an authorised capital of £120,000, of which 60,000 ordinary shares and 25,046 preference shares had been issued. Under the terms of the acquisition A. I. Jones increased its authorised capital to £150,000 by the creation of 30,000 deferred shares of £1 each and adopted new Articles of Association which provided that the original capital should be merged into one class of preference shares entitled to a fixed cumulative preferential dividend of 5 per cent. per annum without voting powers and that the deferred shares should carry voting rights and the right to any surplus profit. Imperial agreed to subscribe at par for the whole of the deferred shares and guaranteed that profits should be sufficient for the payment of the preference dividend. Also in 1902 Imperial purchased for the sum of £10,500 the business of James Quinton Ltd., retail tobacconists, a former subsidiary of Lambert & Butler Ltd., with a capital of £10,000. Both companies were transferred to Salmon & Gluckstein.

144. Imperial says that its files do not record the reasons why it decided to acquire a controlling interest in Salmon & Gluckstein, but that it was probably to prevent the company from falling into the hands of American Tobacco; it probably acquired A. I. Jones for the same reason. According to a report made to the Executive Committee in 1955 Imperial's "primary objective [in acquiring Salmon & Gluckstein] was to stop competitive manufacturing allied with cut-price retailing"; the report adds that to achieve this Imperial "had to pay considerably more than the business as such was worth to them". With reference to this report, Imperial has explained that towards the end of the 19th century Salmon & Gluckstein engaged in cut-price trading through its retail shops. These activities were curtailed "around the turn of the century" when the principal manufacturers introduced conditions of sale (see paragraph 50), and in 1901 Salmon & Gluckstein built a factory for making its own brands. It also approached an association of retailers with a proposal that it should supply the members with all their requirements of tobacco and fancy goods;

at the time, the Salmon & Gluckstein factory would appear to have been operating at only about 25 per cent. of capacity. The response of the retail trade was unfavourable, perhaps because Salmon & Gluckstein brands were less popular with the public than those of other manufacturers, with the result that retailers feared to jeopardise their own business by tying themselves to Salmon & Gluckstein. Imperial submits that, this being so, it had apparently "little to fear from Salmon & Gluckstein's manufacturing and cut price retailing of . . . [its] own brands, and would have been unlikely to purchase the business on that account alone". It was known, however, that American Tobacco had approached Salmon & Gluckstein and "it was clearly considered that the Salmon & Gluckstein business in their hands would have been a potent competitive weapon".

145. When Imperial acquired its interest in the Salmon & Gluckstein group in 1902 it agreed upon certain "self-imposed" limitations,* namely, that:—

- (a) the total number of outlets operated by the group should not exceed the then existing number of 184;
- (b) if Salmon & Gluckstein wished to go into any new areas, or to increase the number of outlets in an area (other than the 20-mile radius of London) in which it was already trading, it should only acquire existing tobacconists' businesses;
- (c) it should not have an undue share of the retail trade in any one town;
- (d) it should not engage in any wholesale trade (apart from servicing the shops of J. Lyons & Co. Ltd.).†

Imperial says that "the limitations on expansion . . . were attributable to the fact that . . . [Imperial] wished to maintain the goodwill of its trading Branches with the distributive trade and therefore had no intention of expanding the scope of the Salmon & Gluckstein business at the expense of other distributors".

146. In 1937 Salmon & Gluckstein acquired Bewlay & Co. Ltd., owner of thirteen high-class retail tobacconists' shops in the London area, with the intention of using Bewlay shops to replace less remunerative shops operated by the group in that area.

147. Restricted in its operations by the limitations referred to in paragraph 145 and hampered by outdated methods the company's trading was unsuccessful and was subsidised by Imperial through the guarantee of the preference dividend. Its main value, in the view of Imperial, lay in advertising and publicity. From 1955 onwards considerable reorganisation was undertaken with a view to modernising the business and putting it upon a profitable footing.

148. In evidence submitted to us in 1959 Imperial has confirmed that for a long time it has recognised that the business of Bewlay has been uneconomic. The company does not, however, regard Bewlay as "a typical retail business". Whilst secondary shops as a whole are at present run at a profit and the unprofitable ones are being closed, many other Bewlay shops are uneconomic largely because they occupy very expensive sites. Imperial has thought it "a good thing to have in most of the big cities in this country at least one specialist tobacconist where the smoker can be sure of finding a really wide range of

* The report of a special committee appointed by the Executive Committee of Imperial in 1954 also mentions that Salmon & Gluckstein group shops were not to sell confectionery or newsagents' goods or to open on Sundays.

† See paragraph 209.

tobacco and cigarette brands"; Bewlay stocks the brands of all manufacturers but it stocks little else except smokers' requisites. These factors have meant "that the business has been an unprofitable one" and Imperial has regarded the losses as in part an advertising charge.

149. Meanwhile in 1954 Bewlay & Co. Ltd. had been wound up and Salmon & Gluckstein Ltd. had changed its name to Bewlay (Tobacconists) Ltd. The company now operates 153 shops in London and the provinces. Imperial now owns £466,587 of the £500,000 issued 10 per cent. cumulative preference shares and all the £100,000 issued deferred shares.

150. In 1927 Imperial acquired a controlling interest in Finlay, owner of a chain of retail tobacconists' shops and kiosks. Imperial has told us that at the time it was concerned at the possibility that American Tobacco contemplated entering the United Kingdom market and has pointed out that in fact that company acquired the business of J. Wix & Sons Ltd. in October of the same year (see paragraph 62). When the Managing Director of Finlay informed Imperial that he was negotiating for the business of A. Baker & Co. Ltd. but would require substantial financial help, Imperial agreed to subscribe the money and at the same time acquired a controlling interest in the Finlay/Baker group. Control was maintained until 1946, when Imperial disposed of part of its holding. Imperial has explained that it "had never regarded the Finlay Company as a subsidiary and considered that consolidation of Finlay's figures in [Imperial's] accounts (which would have been required as a result of the recommendations of the Cohen Committee on Company Law Amendment) would be misleading". It therefore sold 18,500 of its holding of Finlay ordinary shares on the open market and 1,000 of its holding of preference shares to Imperial's staff pension fund.

151. Imperial now holds £27,326 of the £50,000 issued cumulative preference shares of Finlay, and £258,397 of the £525,000 issued ordinary shares. The shares are held in the name of a nominee and Imperial has not publicly acknowledged its holding. Imperial says that it "exercises no control" over Finlay, but that by virtue of its "large shareholding and the important position of the Finlay Company in the retail tobacco trade the Executive Committee discuss matters of mutual interest from time to time with the Chairman of the Finlay Company", who consults Imperial on matters of major policy, such as the possible acquisition of other businesses. Imperial is not represented on the board, but its views would be taken into consideration and would carry considerable weight; it would, however, be an "overstatement" to say that Imperial still exercises considerable influence in Finlay's affairs. The day-to-day management is entirely in the hands of the Finlay board and the company "is run very much at arm's length" from Imperial. Imperial's records show that Finlay does not submit an annual report on trade to the Executive Committee, as Imperial's subsidiaries are required to do, but that the Executive Committee considers the Directors' Report and Statement of Accounts of the company each year. It is the practice of the Managing Director of Finlay to attend for this item; he informs the Executive Committee about the trend of the company's trade and gives his views on trade matters generally. It is recorded that in 1954 the Managing Director discussed his company's annual accounts with the Secretary of Imperial in advance of publication. We are told by Finlay that this action was exceptional and that discussions between the two companies are rare.

152. Imperial has said that, unlike Bewlay, Finlay is in a particularly favourable position in that its costs are exceptionally low. It has a great many kiosks on railway stations and other sites the rentals of which have been negotiated with the British Transport Commission over a period of years, labour costs are low and there is "a tremendous turnover". In recent years Finlay has started selling many types of goods other than tobacco, cigarettes and smokers' requisites, but a very large part of its profits is still derived from the turnover in cigarettes and tobacco; it is one of the few specialist retailers trading under particularly favourable conditions who "can make quite a good living on present retail margins".* Finlay receives special payments from Imperial in connection with window dressing (see paragraph 234), as does Bewlay.

153. In 1930 Imperial acquired a controlling interest in Robert Sinclair, a company primarily engaged in the wholesale distribution of tobacco goods in the North of England and Scotland (see paragraph 128). Both Robert Sinclair and another company called John Sinclair Ltd. had interests in manufacture as well as in distribution. We are told by Imperial that the two Sinclair companies were the leading wholesale tobacco distributors in the Newcastle-upon-Tyne area. In 1930 Carreras Ltd. acquired control of John Sinclair and Imperial learned that a financial group representing Gallaher had approached Robert Sinclair with a view to purchase. Imperial "felt that if both these substantial wholesale businesses fell into the hands of competing manufacturers the sales of . . . [Imperial] brands in the . . . area might be prejudiced". Following negotiations, Robert Sinclair was converted into a public company and Imperial acquired a controlling interest. Robert Sinclair's results for the years 1932-3 and 1933-4 were poor and in 1934 it was decided not to pay a dividend on the ordinary shares. As this would have had an adverse effect on the company's relations with its trade customers (who held a large number of its ordinary shares) it was also decided that outside shareholders should be given the full facts concerning the company's position and that Imperial should offer to buy their shares at par. Most of the outside shareholders accepted this offer and the rest have since done so.

154. Robert Sinclair continued to manufacture its own brands of cigarettes and tobacco until 1953. Between 1930 and 1960 it has enlarged the scale of its wholesale trading operations by acquiring the businesses of fourteen other wholesale tobacconists including John Sinclair.†

* That is, retail margins in June 1959 before the improvement in margins for cigarette and pipe tobaccos resulting from the price increases of August 1959 (see paragraph 226).

† Namely:—

- 1930 Telfer & Sons Ltd., Newcastle-upon-Tyne.
- 1932 G. M. Frame, Glasgow.
- 1936 Wilde & Co., Harrogate and Ripon.
- 1936 F. J. Routledge, Glasgow.
- 1936 James Yule & Son Ltd., Aberdeen.
- 1946 Gregg Bros., Darlington.
- 1952 J. Duncan & Co. Ltd., Glasgow.
- 1952 Kinnear & Scott Ltd., Perth.
- 1953 Forster Tobacco Co. Ltd., Newcastle-upon-Tyne.
- 1956 W. Williams, Sunderland.
- 1956 A. Proctor, Leeds.
- 1956 John Auld Ltd., Aberdeen.
- 1958 John Sinclair Ltd., Newcastle-upon-Tyne.
- 1960 Thomson & Porteous Ltd., Edinburgh.

Thomson & Porteous was acquired from Godfrey Phillips Ltd. Imperial negotiated this purchase on behalf of Robert Sinclair at approximately the same time as it was negotiating a marketing agreement with Godfrey Phillips on behalf of another of its subsidiaries, Ardath (U.K.) Ltd.—see paragraph 185.

155. We found in Imperial's records a Head Office memorandum of 1952 which commented on the fact that the accounts of Robert Sinclair showed a loss, for which a decrease in turnover and profit from sales of the company's own goods had been partly responsible, and suggested that the difference between expected and actual results had been largely due to accounting errors resulting from "lack of delegation of duties and lack of full realisation of the importance of control figures to management". In a report dealing with the company's future submitted to the Executive Committee of Imperial early in 1953, the Managing Director of Robert Sinclair referred to many difficulties including "rates of pay and conditions which follow manufacturers' practice rather than wholesalers'" and an out-of-date factory. He said the company's margins were "insufficient to support a structure which in the main pertains to a manufacturing house conforming to the highest standards of employment", with the result that the expenses of the business were "quite out of balance with its earning capacity". To effect economies it was proposed that the company should concentrate on wholesaling in its own area, eliminate unprofitable lines of its own manufacture and transfer manufacture of the remaining lines to the Ogden branch, whose quotations were for the most part lower than Robert Sinclair's manufacturing costs. The proposal to transfer manufacture was approved and Robert Sinclair was told that the Executive Committee expected the company to make a net profit before taxation of £75,000, less say £25,000 to allow for conforming with Imperial's practices in such matters as rates of pay and conditions. The company ceased to manufacture its own brands in the same year.

156. Robert Sinclair's overall net profit rose from 4 per cent. on capital employed in 1954 to 10 per cent. in 1957. Imperial has said, however, that a profit of 10 per cent. is not adequate and that in the years concerned Robert Sinclair's business must be considered to have been uneconomic. The burden of overhead costs was heavy because of the large number of scattered depots operated and the present management was engaged in "streamlining . . . the organisation in order to reduce overheads". Imperial has told us that when the business was acquired it had overstretched itself and was not in very good order; Imperial was trying to improve it in various ways before the war and in recent years the management of Robert Sinclair has been endeavouring to improve the profitability of the business as a whole. The improvement in profitability since 1954 is taken to indicate that this policy has achieved some success, and in this connection we are told that in 1959 Robert Sinclair's net profits were some two-thirds greater than in 1957. Imperial does not consider the business of Robert Sinclair "entirely typical" of that of all wholesalers; some wholesalers may be run more economically, although others in particular areas "possibly are not doing very well".

157. The board of Robert Sinclair consists of three members of the company's management and a member from the Chief Accountant's Department of Imperial, all nominated by Imperial. Imperial says that the board has complete autonomy in the day-to-day running of the business but is required to obtain approval from the Executive Committee for proposals to acquire new businesses and for major capital expenditure.

158. Bewlay, Finlay and Sinclair stock the brands of all manufacturers. In 1954 75 per cent. of Bewlay's turnover in tobacco goods consisted of Imperial's products, but by 1959 the proportion had fallen to 57 per cent. In the case of

Robert Sinclair from 1954 to 1959 the proportion varied between 83 per cent. and 67½ per cent. In the case of Finlay the proportion was 70 per cent. in 1954 and 57½ per cent. in 1959. The three companies provide Imperial with sales information as required and are consulted when Imperial is seeking information on matters relating to the distributive side of the trade.* In 1952, for example, when Imperial was considering the possible implications of a free market, the company thought it might be helpful to ascertain the views of the three companies, although the distributors generally were not to be informed of Imperial's plans until these were about to be put into effect. Again in 1955 Imperial had discussions with Bewlay and Finlay, as well as with the branches, before deciding to re-issue automatic vending machines. Also in 1955, when multiple retailers were dissatisfied with their position and were pressing the manufacturers for better terms, the Managing Director of Finlay kept Imperial in touch with the views of multiple tobacconists who were members of the Multiple Shops Federation (see footnote * on page 75).†

CHAPTER 4. OTHER MANUFACTURERS

(1) GENERAL

159. There were at the beginning of the present century some 500 manufacturers of tobacco and cigarettes (see paragraph 46); there are now 24 from all of whom we have received evidence.‡ We have also received evidence from a number of former manufacturers, most of whom went out of business between 1951 and 1957. The reasons they have given for ceasing manufacture include: (i) a falling off in demand for the products concerned; (ii) the difficulty of recruiting labour; (iii) the burden of financing the high rates of duty and difficulties raised by Customs and Excise legislation generally; and (iv) the difficulty of competing with the large companies with their greater financial resources. We give further information on these matters in Chapter 14. Seventeen other manufacturers, among them several old-established and well-known makers of pipe tobaccos, are known to have been taken over by others since 1945.§

160. Many of the manufacturers at present operating have connections with the industry dating back to the 19th or 18th centuries; there have been very few new entrants in the past 60 years. In paragraph 4 we give the names of the eight largest manufacturers of recent years after Imperial, with the value of their sales and other particulars. The sixteen smaller companies include a few old-established family businesses whose trade is based mainly on the cheaper hard pipe tobaccos (and also on snuff), which they sell locally. According to Imperial

* Imperial also receives information concerning sales from other distributors in which it has no financial interest—see paragraph 236.

† Finlay points out that its Chairman was at that time also Chairman of the multiple tobacconists' group.

‡ One of the 25 referred to in paragraph 4 stopped manufacturing during 1960 (see paragraph 182). In addition to the present 24 there are a few undertakings producing their own blends of pipe tobaccos in very small quantities or making hand-made cigarettes from tobacco processed and cut by other concerns.

§ For example: Murray, Sons & Co. Ltd., taken over by Carreras Ltd. in 1953; Cope Brothers & Co. Ltd., taken over by Gallaher Ltd. in 1953. George Dobie & Son Ltd. went out of business in 1956 and the company's goodwill and trade marks, together with one of its subsidiaries, were taken over by Godfrey Phillips Ltd.