

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

Draft Charter

The Delegation of the United States of America submit the following proposals for amendment of Articles 25 and 27 of the Draft Charter:

Article 25

General Elimination of Quantitative Restrictions

1. [Except as otherwise provided in this Charter.] No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import licenses or other measures, shall be instituted or maintained by any Member on the importation of any product of any other Member country or on the exportation or sale for export of any product destined for any other Member country.

COMMENT: The opening phrase of paragraph 1 results in a double cross-reference between the general principle laid down in paragraph 1 and the various exceptions stated elsewhere, each of which contains an appropriate cross-reference to paragraph 1. Double cross-references have been avoided elsewhere in the Charter.

2. The provisions of paragraph 1 of this Article shall not extend to the following:

(a)

(b)

(c)

(d) Export or import quotas applied under regulatory inter-governmental commodity agreements concluded in accordance

1.
with the provisions of Chapter VII.]

[(e)] (d) Import restrictions on any agricultural or fisheries product, imported in any form, necessary to the enforcement of governmental measures which operate (i) to restrict the quantities of the like domestic product permitted to be marketed or produced, or (ii) to remove a temporary surplus of the like domestic product by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level. Any Member [imposing] applying restrictions on the importation of any product pursuant to this subparagraph shall give public notice of the total quantity or value of the product permitted to be imported during a specified future period and of any change in such quantity or value. Moreover, any restrictions applied under (i) above shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion which might reasonably be expected to rule between the two in the absence of the restrictions. In determining this proportion the Member shall pay due regard to the proportion prevailing during a previous representative period and to any special factors which may have affected or may be affecting the trade in the product concerned. [The Member shall consult with any other Members which are interested in the trade in question and which wish to initiate such consultations.] ²

[(f) Import and export prohibitions and restrictions on private trade for the purpose of establishing a new, or maintaining an existing monopoly of trade for a state-trading enterprise operated under Articles 31, 32 and 33.]³

¹
COMMENT: Sub-paragraph (d) should be replaced by the insertion in Article 37 of an appropriate provision exempting from all of Chapter V measures undertaken in pursuance of obligations under regulatory commodity arrangements concluded in accordance with Chapter VII (See page 5 of U.S. working paper 7009, 12 June 1947, submitted to the sub-committee on Chapter VII.)

²
the elimination of the consultative provision in the last sentence of sub-paragraph (a) is proposed with a view to avoiding duplication of the consultative provision in paragraph 4 of Article 27 dealing with the same subject.

³
paragraph (f) should be omitted inasmuch as its substance is already covered by sub-paragraph (g) of Article 37. In order to make this perfectly clear, sub-paragraph (a) of Article 37 might be amended as follows:

"(g) Necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of Chapter V, such as those relating to the enforcement of state-trading monopolies, customs [enforcement] regulations, prevention of deceptive practices, and the protection of patents, trade marks and copyrights;"

Article 27

Non-discriminatory administration of quantitative restrictions

1.

2.

(a)

(b)

(c)

(d) Import licenses or permits, whether or not issued in connection with quotas shall not (save for purposes of operating quotas allocated in accordance with sub-paragraph (e) of this paragraph) require or provide that the license or permit be utilized for the importation of the product concerned from a particular country or source. Moreover, such licenses or permits shall not be distributed among importing or supplying enterprises in such manner, or be subject to such conditions as to result in discrimination against any Member.¹

(e) In cases in which a quota is allocated among [applying] supplying countries, [the shares of the various supplying Member countries should in principle be determined in accordance with commercial considerations such as price, quality and customary sources of supply. For the purpose of appraising such commercial considerations.]² the Member applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other Members having a substantial interest in supplying the product concerned. In cases in which this method is not reasonably practicable, the Member concerned shall allot to Member countries having a substantial interest in supplying the product, shares based upon the proportions, supplied by such Member countries during a previous representative period, of the total quantity or value of imports of the product, due account being taken of any special factors which may have affected or may be affecting the trade in the product. No conditions or formalities shall be imposed, which would prevent any Member from utilizing fully the share of any such total quantity or value which has been allotted to it, subject to importation being made within any prescribed period to which the quota may relate.

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COMMENT: This addition to sub-paragraph (d) is proposed in order to make it clear that the intent of the sub-paragraph is to provide that there shall be no discrimination, direct or indirect, in the administration of import license systems.

2
The guiding principle to be followed in quota allocation is set forth in sub-paragraph (a). Sub-paragraph (e) deals with the application of this principle in different words if this is all that is intended.

An objection to the mention of the principle of commercial considerations in this context is that it seems to imply that the government would have its own commercial interests in mind (as in the case of state-trading) whereas in fact governmental allocations should merely reflect the factor of commercial considerations as it may be influencing, or may have influenced, all trade, whether public or private, in the product subject to the restrictions. This application to quota allocations of the principle of commercial considerations, however, is already fully covered by sub-paragraph (a).

It is proposed that sub-paragraph 3(c) be amended as follows and added as a last sentence to sub-paragraph 3(c), present sub-paragraph (b) thus becoming sub-paragraph (a):

In cases [where] in which import licenses are issued in connection with import restrictions, the Member applying the restriction shall provide, upon the request of any Member having an interest in the trade in the product concerned, all relevant information concerning the administration of the restriction, the import licenses granted over a past recent period and the distribution of such licenses among supplying countries [Provided, however, that there shall be no obligation to supply information as to the names of importing or supplying enterprises] .

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COMMENT: Since paragraph 3(a) and (c) both deal with the matter of providing information to Members regarding the administration of quantitative restrictions, it appears more logical to group these together in a single sub-paragraph.

2
The proposal to delete the proviso permitting withholding of the names of importing and supplying enterprises is based on the view that since the granting of licenses to particular enterprises may frequently constitute in effect a discrimination against particular countries, the names of enterprises receiving licenses should not be withheld from Members which request them.