

914X

THIRD COMMITTEE: GENERAL COMMERCIAL POLICY

ANNOTATED AGENDA FOR CHAPTER IV - COMMERCIAL POLICY

Prepared by the Secretariat

This agenda relates to the Geneva Draft of the Charter (documents E/PC/T/186 and E/PC/T/186/Corr.1) and is comprised of the notes to Chapter IV contained in that draft and all proposals received from delegations up to noon on Tuesday, 2 December. Each of the proposed amendments has been issued as a separate document as an addendum to E/CONF.2/11.

SECTION A - TARIFFS, PREFERENCES, AND INTERNAL TAXATION AND REGULATION

Article 16 - General Most-favoured-nation Treatment

GENERAL

1. The following note was appended to the Geneva Draft:

The following kinds of customs action, taken in accordance with established uniform procedures, would not be contrary to a general binding of margins of preference:

- (i) the re-application to an imported product of a tariff classification or rate of duty, properly applicable to such product, in cases in which the application of such classification or rate to such product was temporarily suspended or inoperative on 10 April 1947; and
- (ii) the application to a particular commodity of a tariff item other than that which was actually applied to importations of that commodity on 10 April 1947, in cases in which the tariff law clearly contemplates that such commodity may be classified under more than one tariff item.

2. At Geneva the delegations of Chile and Lebanon reserved their position on this Article.

Paragraph 1

The delegation of Argentina proposes (document 11/Add.3) that paragraph 1 be rewritten as follows:

"With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or to duties and dues imposed on the international transfer of payments for imports or exports and ~~with respect to~~ the method of ~~levying~~ imposing such
/duties

duties and charges and with respect to all rules and formalities in connection with importation and exportation and with respect to all matters referred to in paragraphs 1 and 2 of Article 18, any advantage, favour, privilege or immunity granted by any Member to any product originating in or destined for any other Member country shall be accorded immediately and unconditionally to the like product originating in or destined for all other Member countries respectively, on a reciprocal and mutually advantageous basis.

"The above provisions shall not apply to any advantage, favour, privilege or immunity granted by a Member to any product originating in or destined for another Member country, provided that the Members concerned form a group of complementary economies co-operating on a compensatory basis and on a basis of equality."

New paragraph 2.

The delegations of Lebanon and Syria propose (document 11/Add.14) that the following paragraph should be inserted after paragraph 1:

The provisions of paragraph 1 of this Article shall not prevent the conclusion of regional preferential tariff agreements designed to develop production in, and promote trade between, Members belonging to the same economic region.

Paragraph 2

At Geneva the delegation of Cuba reserved its position in relation to preferences accorded by differential internal taxes.

Paragraph 2 (c)

The delegation of Peru proposes (document 11/Add.22) the deletion of this sub-paragraph.

Paragraph 2 (d)

The delegation of Costa Rica proposes (document 11/Add.16) the addition of the following annex:

"ANNEX G

List of territories to which the preferential arrangements referred to in paragraph 2 (d) of Article 16 apply:

Costa Rica
El Salvador
Guatemala
Honduras
Nicaragua"

New paragraph (4)

1. The delegation of El Salvador proposes that the following paragraph be inserted after paragraph (3):

"4. The provisions of the first paragraph of this Article shall not apply to such bilateral or multilateral preferences as are now in force
/between

between the countries of Central America, including Panama, or may be granted in the future."

The delegation's statement in support of this proposal appears in document 11/Add.10.

2. The delegation of Turkey has proposed (document 11/Add.25) that the following paragraph be inserted after paragraph 3:

"The provisions of paragraph 1 of this Article shall not apply to such reciprocal preferences between countries formerly part of the Ottoman Empire and detached from it on 24 July 1923 as are set forth in treaties concluded by Turkey."

Article 17 - Reduction of Tariffs and Elimination of Preferences

GENERAL

1. The following note was appended to the Geneva Draft:

The provisions of this Article do not prevent Members from concluding new, or maintaining existing, bilateral tariff agreements which are not incorporated in the General Agreement on Tariffs and Trade, provided that such agreements are consistent with the relevant principles of Article 17 and that the concessions made by a Member under such agreements are generalized to all members in accordance with Article 16.

2. At Geneva the delegation of Cuba reserved its position on this Article.

Paragraph 1

1. The following note was appended to the Geneva Draft:

The undertaking to negotiate regarding preferences necessarily implies that prior international commitments to grant particular preferences will not be permitted to frustrate the undertaking to negotiate. For this reason the provisions of sub-paragraph I (a) of the New York draft have been omitted from the Charter as being implicit.

Obviously any agreement reached affecting preferences provided for in any prior commitment would require, in order to be implemented, such change in the latter as might be necessary to give effect to the agreement. This change would either have to be agreed between the parties to the prior commitment or, if they could not agree, the party wishing to make the change, in order to proceed, would have to terminate the prior commitment in accordance with its terms.

2. The delegation of Argentina proposes (document 11/Add.3) that the first lines of paragraph 1 be rewritten as follows:

"Each Member shall [upon the request of the Organization] enter into and carry out with [such other Member or Members as the Organization may specify] the other Members negotiations directed to the [substantial] /progressive

progressive reduction of tariffs [and other charges on] hindering imports and exports----"

3. The delegation of Peru proposes (document 11/Add.22) that the following sub-paragraphs be inserted after sub-paragraph (b):

"(c) the readjustment of custom duties by countries using specific rates on their tariffs, in order to compensate for a substantial depreciation of their currencies will not be considered as an increase of their tariffs;

(d) due consideration shall be given to Article 13 which recognizes to devastated and under-developed countries the right to establish or maintain protective tariffs under appropriate circumstances."

4. In the last two lines of sub-paragraph (d) the words "General Agreement on Tariff Trade" should be replaced by "General Agreement on Tariffs and Trade".

Paragraph 2

The delegation of Peru proposes (document 11/Add.22) the following amendments in paragraph 2 and the deletion of paragraph 3:

"If any Member considers that any other Member has failed to fulfill its obligations under paragraph 1 of this Article, such Member may refer the matter to the Organization, which, after investigation by the Tariff Committee created under Article 81, shall make appropriate recommendations to the Members concerned. If the Organization Tariff Committee finds that [a] the Member has failed without sufficient justification, having regard to its economic position and the provisions of the Charter as a whole, to carry out negotiations within a reasonable period of time, in accordance with the requirements of paragraph 1 of this Article, the Organization may determine that any Member or Members shall, notwithstanding the provisions of Article 16, be entitled to withhold from the trade of the other Member any of the tariff benefits which may have been negotiated pursuant to paragraph 1 of this Article, and embodied in Part I of the General Agreement on Tariffs and Trade. If such benefits are in fact withheld, so as to result in the application to the trade of the other Member of tariffs higher than would otherwise have been applicable, such other Member shall then be free, within sixty days after such action is taken, to withdraw from the Organization upon the expiration of sixty days from the date on which written notice of such withdrawal is received by the Organization Tariff Committee shall rule that such Member has failed to carry out its obligations under the Charter; and the Tariff Committee shall present to the Executive Board of the Organization its

/recommendations

recommendations on the extension of the benefits which shall be withheld from that Member by the Organization. The importance of such withheld benefits shall be in proportion to the damage inflicted upon the other Member, or Members. The Executive Board shall rule on the matter and the Member against which a decision will have been taken may apply to the provision of Chapter VIII."

Article 18 - National Treatment on Internal Taxation and Regulation

GENERAL

At Geneva the delegation of Norway reserved its position on this Article and will submit proposals to the Committee.

Paragraph 1

1. The delegation of the United Kingdom proposes (document 11/Add.8) that the first sentence should be amended as follows;

The products of any Member country imported into any other Member country shall [exempt from] not be subjected, directly or indirectly, to any internal taxes [and] or other internal charges of any kind in excess of those applied [directly or indirectly] to like products of national origin.

2. The delegation of China proposes the deletion of the second and third sentences for reasons set forth in document 11/Add.9.

3. At Geneva the delegation of Chile reserved its position on the second and third sentences.

4. The delegation of Costa Rica proposes (document 11/Add.16) the addition of the following at the end of the first paragraph:

"In all these cases it is to be understood that the equality of treatment clause shall apply when the tax levied on the merchandise is maintained or established on an ad valorem basis, provided that as regards the scale of taxation no distinction is made between national and foreign products on grounds of origin alone."

5. At Geneva the delegation of Cuba reserved its position and proposed a new paragraph permitting the exemption of domestic products from internal taxes for development purposes.

6. The delegation of Peru proposes (document 11/Add.22) that the following sub-paragraph be added to paragraph 1:

"(b) As an exception to the provisions of paragraph (1) of Article 18, and with a view of carrying out proposals of the Charter exposed in Article 8, any enterprise may be exempt from internal taxes, for a period of years, when created for the establishment of economically sound industries, in undeveloped countries."

Paragraph 3

At Geneva the delegation of Chile reserved its position.

/Paragraph 4

Paragraph 4

1. The delegation of Argentina proposes (document 11/Add.3) that this paragraph be amended as follows:

"The provisions of paragraphs 1, 2 and 3 of this Article shall not apply to:

- (a) Any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19 and to any products deemed by the individual Member to be of national interest.
 - (b) Any other measures of internal legislation and provisions quantitative control in force in any Member country on 1 July 1939 or 10 April 1947 at the option of that Member on 21 November 1947; provided that...
2. At Geneva the delegation of New Zealand reserved its position on sub-paragraph (b) pending further consideration.

Paragraph 5

1. The delegation of China maintains the observation made provisionally at Geneva proposing the deletion of the words "or use in the production of goods for sale".
2. The delegation of Argentina proposes that the first lines of paragraph 5 be rewritten as follows:

The provisions of this Article shall not apply to the procurement purchases of products by governmental agencies of products purchased for governmental purposes and not for resale or use in the production of goods for sale, nor shall they prevent the payment..."

Article 19 - Special Provisions Relating to Cinematograph Films

GENERAL

The delegation of Czechoslovakia has submitted the following observation (document 11/Add.5):

"The delegation of Czechoslovakia is of the opinion that films being works of art are not just simple commercial commodities or industrial products. They are individualized creations of varying artistic talents. They are never sold in the form of a piece of merchandise whose ownership passes from one owner to the other but as more or less limited rights to exhibit them publicly in a given territory for a given period of time and hence fall rather under the category of copyrights. In this respect it is for instance obvious that one cannot request from one country, because it possesses twenty square feet or an original picture of Velásquez, that it should be obliged also to buy twenty square feet of any other oil painting of whatever nationality. The quality of films and tendencies of films
may greatly

may greatly change from one period to another and hence it should be stated that films should be explicitly excluded from the competence of the ITC, especially as the question of films is dealt with by the film division of the secretariat of the United Nations or UNESCO."

Sub-paragraph (b)

The delegation of the United Kingdom proposes (document 11/Add.8) that the word "no" in the third line be deleted and that the last two lines be altered to read "shall not be allocated formally or in effect among sources of supply".

Sub-paragraph (c)

1. The delegation of the United Kingdom proposes (document 11/Add.8) the following changes:

In line two replace "Members" by "any Member".

In line four replace "conditions" by "requirements".

In line six replace "national" by "specified".

2. The delegation of Argentina proposes the deletion of the proviso (document 11/Add.3).

SECTION B - QUANTITATIVE RESTRICTIONS AND EXCHANGE CONTROLS

Article 20 - General Elimination of Quantitative Restrictions

GENERAL

At Geneva the delegation of Cuba reserved its position in view of the rejection of its proposal for excepting restrictions up to fifty percent of domestic consumption for promoting the maintenance, development or reconstruction of an industry.

Paragraph 2 (a)

1. The delegation of Australia proposes the deletion of the word "temporarily". The following comments of the delegation of Australia appear in document 11/Add.11:

"In the examination of this article which took place in Australia after the Geneva Conference the question was raised in relation to paragraph 2 (a) as to whether the period over which a critical shortage might exist would be such that the word "temporarily" would be inappropriate. A shortage might easily extend for two, three or more years, in which case it could hardly be said that a restriction necessary to meet these circumstances would be imposed temporarily.

"It is assumed that the references to the term "critical" in the text of this sub-paragraph which were recorded in the minutes at the Preparatory Committee in Geneva (see Geneva document E/PC/T/A/PV.40(1)) will be preserved in the record of the proceedings of this conference."

/2. The

2. The delegation of China proposes (document 11/Add.9) that the following be added to sub-paragraph (a):

"provided that, in cases of restrictions, priority in supplying such foodstuffs or other products should be accorded to these Member countries which are in urgent need of them and whose domestic production is not substantial. If the commodity has many end uses, the decision as to which end use is the most important should be made by the importing country."

Paragraph 2 (c)

1. The delegation of Peru proposes (document 11/Add.22) the deletion of sub-paragraph (c) and the final sub-paragraph.

2. At Geneva the delegation of Chile reserved its position.

3. The following note was appended to the Geneva Draft:

The term "in any form" in this paragraph covers the same products when in an early stage of processing and still perishable, which compete directly with the fresh product and if freely imported would tend to make the restriction on the fresh product ineffective.

4. The delegation of the United Kingdom proposes (document 11/Add.8) that the words "of the like domestic product" in lines two and three of sub-paragraph (1) be deleted and the same words inserted after "quantities" in line one.

Paragraph 2 - New Sub-paragraph

The delegations of China and Lebanon maintain their reservation, recorded in the Geneva Report, on paragraph 2 proposing to add a sub-paragraph (d) providing a procedure for releasing a Member, without the prior approval of the Organization, from the obligation to refrain from import restrictions when the industry in question is of vital importance.

Paragraph 2 - last sub-paragraph

The following note was appended to the Geneva Draft:

The term "special factors" includes changes in relative productive efficiency as between domestic and foreign producers, or as between different foreign producers, but not changes artificially brought about by means not permitted under the Charter.

New paragraph

The delegation of Argentina proposes (document 11/Add.3) the insertion of the following paragraph after paragraph 2:

"Countries which are at an early stage of industrial development and those which have not reached an advanced stage of industrialization as a whole shall, in conformity with the purposes and objectives set forth in Chapter I of this Charter, not be required to apply the provisions of paragraph 1 of this Article."

Article 21 - Restrictions to safeguard the Balance of Payments

GENERAL

The delegation of Belgium reserves its position as recorded in the Geneva Report pending examination of this Article by the Committee.

Paragraph 2

1. The delegation of Australia maintains its reservation recorded in the Geneva Report against the text of paragraph 2 (b) on the ground that the present language does not accurately express the intended meaning, and intends to propose an amendment.

2. The delegation of Argentina proposes (document 11/Add.3) that sub-paragraph (a) (1) be amended as follows:

"to forestall the [imminent] threat of or to stop a [serious] decline in its monetary reserves..."

Paragraph 3 (a)

The delegation of Argentina proposes (document 11/Add.3) that the second sentence of sub-paragraph (a) be rewritten to read as follows:

"During this period [the Organization shall, when required to take decisions under this Article or under Article 23 take full account of the difficulties of post-war adjustment and of the need which a Member may have to use] each Member may impose import restrictions [as a step towards the restoration of] in order to restore equilibrium in its balance of payments on a sound and lasting basis."

Paragraph 3 (b)

The following note was appended to the Geneva Draft:

The phrase "notwithstanding the provisions of paragraph 2 of this Article" has been included in the text to make it quite clear that a Member's import restrictions otherwise "necessary" within the meaning of sub-paragraph 2 (a) shall not be considered unnecessary on the ground that a change in domestic policies as referred to in the text could improve a Member's monetary reserve position. The phrase is not intended to suggest that the provisions of paragraph 2 are affected in any other way.

Paragraph 3 (c)

The delegation of Argentina proposes (document 11/Add.3) the deletion of the last lines of sub-paragraph (1) beginning with the words "or prevent compliance with".

Paragraph 4

The delegation of Argentina proposes (document 11/Add.3) that sub-paragraph (a) be rewritten as follows:

"Any Member imposing restrictions under this Article shall inform the Organization of the nature of its balance-of-payments difficulties and the various corrective measures which have been applied.

/and that

and that sub-paragraphs (b), (c), (d) and (e) be deleted.

Article 22 - Non-discriminatory Administration of Quantitative Restrictions
Paragraphs 2, 3, 4, 5

The delegation of Argentina proposes (document 11/Add.3) the deletion of these four paragraphs.

Paragraph 2 (d)

The following note was appended to the Geneva Draft:

The Preparatory Committee omitted the phrase establishing "commercial considerations" as a rule for the allocation of quotas, because it was considered that its application by governmental authorities might not always be practicable. Moreover, in cases where it was practicable, a Member could apply this consideration in the process of seeking agreement, consistently with the general rule laid down in the opening sentence of paragraph 2.

Paragraph 3 (b) and (c)

The delegation of Czechoslovakia has submitted the following comment (document 11/Add.5):

"The delegation of Czechoslovakia, while not opposed to the principle of public notice, is of the view that too rigid a rule would have a restrictive effect upon the expansion of trade in general and that unlimited publicity should be requested only by those countries which have a predominant part of their trade with countries which themselves publish quotas."

Paragraph 4

The Geneva Report draws attention to the note in connection with the last sub-paragraph of paragraph 2 of Article 20, which reads as follows:

"The term 'special factors' includes changes in relative productive efficiency as between domestic and foreign producers, or as between different foreign producers, but not changes artificially brought about by means not permitted under the Charter."

Article 23 - Exceptions to the Rule of Non-discrimination

GENERAL

1. At Geneva the delegations of Czechoslovakia, Chile and Norway recorded a reservation and now intend to submit proposals.
2. The delegation of Belgium reserves its position pending examination of this Article by the Committee.
3. The delegation of Czechoslovakia has submitted the following comment (document 11/Add.5):

"In the opinion of the delegation of Czechoslovakia the Geneva text of this article does not take fully into account practical difficulties of the present period. Accordingly the delegation of Czechoslovakia

Czechoslovakia feels that the original wording as it was in Article 28 of the London and New York draft corresponds better to economic realities."

4. The delegation of Argentina proposes (document 11/Add.3) that the whole of this Article should be deleted and be replaced by the following:

"Recognizing the principle of the non-discriminatory administration of quantitative restrictions established in Article 22, taking into account the fact that not all the countries signing this Charter are Members of the International Monetary Fund and also the absence at present of any general and sound balance in international trade and payment, Member countries shall not be required to apply the principle of non-discrimination in connection with international payments until the above-mentioned conditions are fulfilled."

Paragraph (1)

The delegation of the United Kingdom proposes (document 11/Add.8) the following amendment in sub-paragraph (b) (ii):

"the Member taking such action does not do so as part of any arrangement by which the gold or convertible currency which the Member currently receives directly or indirectly from its exports to other Members not party to the arrangement is appreciably reduced/ the Member's receipts from exports to other Members not party to the arrangement whose currencies are convertible are appreciably reduced below the level it could otherwise have been reasonably expected to attain;"

Paragraph 3

The following note was appended to the Geneva Draft:

The Preparatory Committee considered the question of whether it was necessary to make express reference in paragraph 3 of Article 23 to the need of the Organization to consult with the International Monetary Fund. It concluded that no such reference was necessary since such consultation in all appropriate cases was already required by virtue of the provisions of paragraph 2 of Article 24.

Paragraph 5. (b)

The delegation of Brazil maintains its reservation recorded in the Geneva Report pending discussion in the Committee.

New paragraph 6.

The delegation of France has proposed (document 11/Add.24) that the following paragraph be added to this Article:

"6. (a) The provisions of Article 22 shall not enter into force in respect of import restrictions applied by a Member pursuant to Article 21, in order to safeguard its external financial position and balance
/of payments

of payments, and the provisions of paragraph 1 of Article 20 and of Article 22 shall not enter into force in respect of export restrictions applied by a Member for the same reason, until 1 January 1949; Provided that this period may, with the concurrence of the Organization, be extended for such further periods as the latter may specify in respect of a Member whose supply of convertible currencies is inadequate to enable it to apply the above-mentioned provisions.

"(b) If a measure taken by a Member in the circumstances referred to in sub-paragraph (a) of this paragraph affects the commerce of another Member to such an extent as to cause the latter to consider the need of having recourse to the provisions of Article 21, the Member having taken that measure shall, if the affected Member so requests, enter into immediate consultation with a view to arrangements enabling the affected contracting party to avoid having such recourse, and if special circumstances are put forward to justify such action, shall temporarily suspend application of the measure for a period of fifteen days."

In support of this proposal the delegation of France has stated that this clause was inserted in the General Agreement on Tariffs and Trade and it is essential that it should be incorporated in the Charter so as to avoid any disparity in the two documents.

Article 24 - Exchange Arrangements

GENERAL

1. The delegation of Belgium reserves its position pending examination of this Article by the Committee.
2. The delegation of Argentina proposes (document 11/Add.3) the deletion of this Article.

Paragraph 2

1. The delegation of Australia proposes that the words "accept the determination" in the eleventh line be replaced by "give special weight to the opinions".

The delegation of Australia states that it accepts wholeheartedly the need for the closest possible co-operation between the International Trade Organization and the International Monetary Fund in matters that are of common concern to both bodies, but it does not believe that the way to achieve this co-operation is to make one body subservient to the other.

The points given by the delegation of Australia in support of this proposal are set out in document 11/Add.11.

2. At Geneva the delegation of New Zealand recorded a reservation of the last sentence of paragraph 2.

/Paragraph 4

Paragraph 4

The following note was appended to the Geneva Draft:

The word "frustrate" is intended to indicate, for example, that infringements by exchange action of the letter of any Article of this Charter shall not be regarded as offending against that Article if, in practice, there is no appreciable departure from the intent of the Article. Thus a Member which, as part of its exchange control, operated in accordance with the Articles of Agreement of the International Monetary Fund, required payment to be received for its exports in its own currency or in the currency of one or more members of the International Monetary Fund would not thereby be deemed to be offending against Article 20 or Article 22. Another example would be that of a Member which specified on an import license the country from which the goods might be imported for the purpose not of introducing any additional element of discrimination in its import licenses but of enforcing permissible exchange controls.

SECTION C - SUBSIDIES

Article 25 - Subsidies in General

Article 26 - Additional Provisions on Export Subsidies

GENERAL

The delegation of Cuba will submit a statement regarding its reservation on this Article.

Paragraph 3

The delegation of Argentina proposes (document 11/Add.3) the deletion of most of this paragraph beginning with the word "but" in the third line.

Article 27 - Special Treatment of Primary Commodities

Paragraphs 2 and 3

The delegation of Argentina proposes (document 11/Add.3) the deletion of these two paragraphs.

Paragraph 3

At Geneva the delegation of the United States reserved its position on paragraph 3 of Article 27 and on Article 28.

Article 28 - Undertaking Regarding Stimulation of Export

GENERAL

1. The delegation of Argentina proposes (document 11/Add.3) the deletion of this Article.
2. At Geneva the delegation of the United States reserved its position on this Article as noted above.
3. The Committee may wish to re-examine the Article references contained in the first three lines of Article 28. For example, the qualification regarding the use of export subsidies contained in Article 28 would not seem applicable to paragraph 1 of Article 26, which in fact establishes a general prohibition of export subsidies.

Also it is not clear that Article 28 can apply in the case of paragraph 2 of Article 26, since the payments referred to in the latter paragraph "shall be considered as a case under Article 25" (to which Article 28 does not refer) while "excess payments" are subject to the general prohibition contained in paragraph 1 of Article 26.

On the other hand, it may be considered desirable to extend the qualification contained in Article 28 to apply to paragraph 4 of Article 26, since a subsidy applied by a Member under this paragraph, whilst doing no more than offset a subsidy granted by a non-Member, might, in certain circumstances, have the effect of increasing the Member's share of world trade in the product concerned.

/Article 29

Article 29 - Procedure

The delegation of Argentina proposes (document 11/Add.3) the deletion of this Article.

SECTION D - STATE TRADING

Article 30 - Non-discriminatory Treatment

GENERAL

The delegation of Argentina proposes (document 11/Add.3) the deletion of this Article.

Paragraph 1

The following note was appended to the Geneva Draft:

The operations of Marketing Boards, which are established by Members and are engaged in purchasing or selling, are subject to the provisions of sub-paragraphs (a) and (b).

The activities of Marketing Boards which are established by Members and which do not purchase or sell but lay down regulations covering private trade are governed by the relevant Articles of this Charter.

The charging by a State enterprise of different prices for its sales of a product in different markets is not precluded by the provisions of this Article, provided that such different prices are charged for commercial reasons, to meet conditions of supply and demand in export markets.

The delegation of Belgium reserves its position on this note and will propose an amendment. (In the Geneva Report the Belgian reservation was related by mistake to sub-paragraph (a).)

Paragraph 1 (a)

1. The following note was appended to the Geneva Draft:

Governmental measures imposed to ensure standards of quality and efficiency in the execution of external trade, or privileges granted for the exploitation of national natural resources but which do not empower the government to exercise control over the trading activities of the enterprise in question, do not constitute "exclusive or special privileges".

2. The delegation of the United Kingdom proposes (document 11/Add.8) to replace "applied in this Charter to governmental measures" in lines eight and nine by "prescribed in this Charter for governmental measures".

Paragraph 1 (b)

1. The following note was appended to the Geneva Draft:

A country receiving a "tied loan" is free to take this

/loan

loan into account as a "commercial consideration" when purchasing requirements abroad.

2. The delegation of the United Kingdom proposes (document 11/Add.8) to replace the word "prices" in line seven by "price".

Paragraph 2

The following note was appended to the Geneva Draft:

The term "goods" is limited to products as understood in commercial practice, and is not intended to include the purchase or sale of services.

Article 31 - Expansion of Trade

GENERAL

1. The delegation of Argentina proposes (document 11/Add.3) the deletion of this Article.
2. The following note was appended to the Geneva Draft:

The Preparatory Committee deleted Article 33, as given in the Report of the First Session.

In revising the text of Article 32 (now Article 31), of the New York draft, the Preparatory Committee aimed at producing a text sufficiently flexible to permit any appropriate negotiations with a Member which maintains a complete or substantially complete monopoly of its external trade. However, since no representative of such a country attended the sessions of the Preparatory Committee, the question whether the present Article 31 provides an adequate basis for participation by such a country in the rights and obligations of the Charter remains open for discussion at the World Conference.

Arising out of a proposal by the New Zealand Delegation to make an addition to the previous text of Article 33, the Preparatory Committee considered the special problems that might be created for Members which, as a result of their programmes of full employment, maintenance of high and rising levels of demand and economic development, find themselves faced with a high level of demand for imports, and in consequence maintain quantitative regulation of their foreign trade. In the opinion of the Preparatory Committee the present text of Article 21, together with the provision for export controls in certain parts of the Charter, e.g. in Article 43, fully meet the position of these economies.

At Geneva the delegation of New Zealand reserved the position of its Government on this question.

/Paragraph 3

Paragraph 3

The following note was appended to the Geneva Draft:

If the maximum import duty is not bound by negotiations according to sub-paragraph 2 (a) the Member is free to change at any time the declared maximum import duty, provided such change is made public or notified to the Organization.

Paragraph 4

The following note was appended to the Geneva Draft:

With reference to the second proviso, the method and degree of adjustment to be permitted in the case of a primary product that is the subject of a domestic price stabilization arrangement should normally be a matter for agreement at the time of the negotiations under sub-paragraph (a) of paragraph 2.

Paragraph 6

The delegation of Mexico proposes to delete the word "or" which appears before the word "revenue" and to insert the words "or public service" after the word "revenue". (Document 11/Add.1).

SECTION E - GENERAL COMMERCIAL PROVISIONS

Article 32 - Freedom of Transit

GENERAL

At Geneva the Chilean Delegation maintained, for the time being, the view that Article 32 should be confined to goods only, in which case the words "and also vessels and other means of transport" in paragraph 1 should be deleted, and in consequence reserved its position.

Paragraph 1

The delegation of Argentina proposes (document 11/Add.3) the deletion of the phrase "and also vessels and other means of transport," which appear in the first lines of this paragraph.

Paragraph 2

The delegation of Argentina proposes (document 11/Add.3) the deletion of this paragraph.

Paragraph 5

The following note was appended to the Geneva Draft:

"With regard to transport charges, the principle of paragraph 5 refers to like products being transported on the same route under like conditions."

Paragraph 6

The delegation of France has proposed (document 11/Add.24) that all the words after the word "Charter" in line eleven should be deleted.

The following statement is given in support of this proposal:

"As the delegation of France pointed out during the discussions at Geneva, the French Government is not, in present circumstances and having regard to the state of French ports, in a position to amend its legislation to bring it into conformity with the provisions of paragraph 6. It therefore requests that the exception granted in respect of certain special regulations be made general."

New Paragraph (8)

The delegation of Costa Rica proposes (document 11/Add.16) the addition of the following new paragraph:

"8. Livestock which has to graze for more than _____ days in the territory of a State before proceeding to its final destination shall not be considered as being in transit."

Article 33 - Anti-dumping and Countervailing Duties

GENERAL

1. The delegations of Cuba and Lebanon maintain their view, recorded in the Geneva Report, that they would prefer to introduce this Article by an express statement of condemnation of dumping.

/2. The delegation of

2. The delegation of Argentina proposes (document 11/Add.3) that this and its title be replaced by the following:

"PREVENTION OF DUMPING. The Members condemn the practice of dumping and recognize the need to resort to every means possible for combatting it. They undertake to spare no effort to that end. The Organization shall undertake studies and inquiries to provide information on dumping and shall communicate the results of such inquiries to Members, so that the latter may adopt such counter-measures as they think fit."

3. The delegation of China proposes (document 11/Add.9) that the following be adopted as the first paragraph of this Article:

"No dumping of any product of any Member country into any other Member country shall be made. Each Member country shall undertake by effective measures appropriate to its governmental system to prevent the dumping of any of its products into the territories of any other Member country. If, in spite of the obligation undertaken under this provision, dumping still takes place, the Member country into the territories of which the products of any other Member country are being dumped shall be free to impose anti-dumping duties on such products or to take other appropriate measures to deal with the situation."

Paragraph 1

The following note is appended to the Geneva Draft:

"Hidden dumping by associated houses (that is, the sale by the importers at a price below that corresponding to the price invoiced by the exporter with which the importer is associated, and also below the price in the exporting country) constitutes a form of price dumping."

Paragraph 2

The following note is appended to the Geneva Draft:

"Multiple currency practices may in certain circumstances constitute a subsidy to exports which can be met by countervailing duties under paragraph 2 or may constitute a form of dumping by means of a partial depreciation of a country's currency which can be met by action under paragraph 1 of this Article. By "multiple currency practices" is meant practices by governments or sanctioned by governments."

Paragraph 5

The following note was appended to the Geneva Draft:

"The delegations of Belgium-Luxemburg, Czechoslovakia, France and the Netherlands expressed the fear that abuses might be committed under cover of the provisions of paragraph 5 regarding the threat of injury of which a State might take advantage on the pretext that it intended
/to establish"

to establish some new domestic industry in the more or less distant future. It is considered, however, that, if such abuses were committed, the general provisions of the Charter would be adequate to deal with them."

Paragraph 6

1. At Geneva paragraph 6 was added to the previous draft of this Article. The Delegations of China, India and Pakistan maintain their opposition, recorded in the Geneva Report, to the addition of this paragraph.
2. The following note was appended to the Geneva Draft:

"The obligations set forth in paragraph 6 are, as in the case of all other obligations under Chapter IV, subject to the provisions of Article 40."

Article 34 - Valuation for Customs Purposes

Paragraph 2

1. The following note was appended to the Geneva Draft:
"The Preparatory Committee considered the desirability of replacing the words 'at the earliest practicable date' by a definite date or, alternatively, by a provision for a specified limited period to be fixed later. The Committee appreciated that it would not be possible for all Members to give effect to these principles by a fixed time, but it was nevertheless understood that a majority of the Members would give effect to them at the time the Charter enters into force."
2. The delegation of Argentina proposes (document LI/Add.3) the deletion of the words "upon a request by another Member" from the second sentence.

Paragraph 3

1. The following notes were appended to the Geneva Draft:
 - (a) It would be in conformity with Article 34 to presume that "actual value" may be represented by the invoice price, plus any non-included charges for legitimate costs which are proper elements of "actual value" and plus any abnormal discount or other reduction from the ordinary competitive price.
 - (b) It would be in conformity with Article 34, 3 (b), for a Member to construe the phrase "in the ordinary course of trade", read in conjunction with "under fully competitive conditions", as excluding any transaction wherein the buyer and seller are not independent of each other and price is not the sole consideration.
 - (c) The prescribed standard of "fully competitive conditions" permits Members to exclude from consideration distributors' prices which involve special discounts limited to exclusive agents.
 - (d) The wording of (a) and (b) permits a Member to assess duty uniformly either (1) on the basis of a particular exporter's prices of the imported merchandise, or (2) on the basis of the general price level of like merchandise.

/2...At Geneva

2. At Geneva the delegation of Chile reserved its position on this paragraph.

Paragraph 5

The delegation of Argentina proposes (document 11/Add.3) the deletion of this paragraph.

Article 35 - Formalities connected with Importation and Exportation

Paragraph 1

1. The delegation of Argentina proposes (document 11/Add.3) that the first lines be amended as follows:

"The Members recognize that [fees and charges, other than duties,] dues imposed by governmental authorities....."

2. The delegation of Argentina proposes (document 11/Add.3) that the words "...fees and charges..." in the second sentence be replaced by the word "dues".

Paragraph 5

1. The following note was appended to the Geneva Draft:

"While Article 35 does not cover the use of multiple rates of exchange as such, paragraphs 1 and 5 condemn the use of exchange taxes or fees as a device for implementing multiple currency practices; if, however, a Member is using multiple currency exchange fees for balance of payments reasons with the approval of the International Monetary Fund, the provisions of paragraph 2 fully safeguard its position since that paragraph merely requires that the fees be eliminated at the earliest practicable date."

2. The delegation of Argentina proposes (document 11/Add.3) that the words "fees, charges" be replaced by the word "dues".

Article 36 - Marks of Origin

GENERAL

The delegation of Argentina proposes (document 11/Add.3) that this Article be deleted.

Paragraph 7

At Geneva the delegation of Chile reserved its position.

Article 37 - Publication and Administration of Trade Regulations

Paragraph 3 (c)

1. The delegation of Argentina proposes (document 11/Add.3) that the last part of the last sentence beginning with the words "in order that;.." be deleted.

2. The delegation of New Zealand proposes that the last words of this sub-paragraph, namely, "and those of sub-paragraph (b)" should be deleted.

The following explanatory note appears in document 11/Add.6:

/The above amendment

The above amendment is to bring the provision in the Charter into line with the corresponding provision included in Article X of the General Agreement on Tariffs and Trade. The reference in question to sub-paragraph (b) was made inadvertently, the original intention having been to refer to sub-paragraph (a) in conformity with the decision of the sub-committee which dealt with the matter at the Second Session of the Preparatory Committee. Attention to the position was called by the Legal Drafting Committee of the Trade Agreements Committee when considering the corresponding provision to be included in the General Agreement on Tariffs and Trade. Upon consideration by the Trade Agreements Committee it was decided that since sub-paragraph (a) sets out a general principle to which all members must subscribe there is no purpose in making reference to it in sub-paragraph (c) and the words "and those of sub-paragraph (b)" were accordingly deleted from the provision included in the General Agreement on Tariffs and Trade.

This proposal is supported by the delegation of the United Kingdom (document 11/Add.8).

Article 38 - Information, Statistics and Trade Terminology

Article 39 - Boycotts

The delegations of Lebanon and Syria propose (document 11/Add.14) the following amendments:

1. No member shall encourage, support or participate in boycotts /or other/, whether by governmental measures or by popular campaigns, /which are/ designed to discourage, directly or indirectly, the import into or consumption within its territory of products of any specific Member country or countries on grounds of origin, or the export or sale of products for consumption within other Member countries on grounds of destination, or the transit of products on grounds of origin or destination.
2. Nothing in paragraph 1 of this Article or in the other provisions of this Charter shall prevent a Member from engaging in boycotts designed to protect its national security or to safeguard its essential national interests.

SECTION F - SPECIAL PROVISIONS

Article 40 - Emergency Action on Imports of Particular Products

Paragraph 2

The delegation of Argentina proposes (document 11/Add.3) that the first words of the last sentence be amended as follows:

"In /critical/ circumstances where any delay...."

/Paragraph 3 (a)

Paragraph 3 (s)

The delegation of Argentina proposes (document 11/Add.3) the deletion of the last words of this sub-paragraph, namely "the suspension of which the Organization does not disapprove."

Article 41 - Consultation

- - - -

Article 42 - Territorial Application of Chapter IV - Frontier Traffic -
Customs Unions

GENERAL

The following note was appended to the Geneva Draft:

"Paragraph 4 of the text of the former Article 38 proposed by the New York Drafting Committee has been deleted since the subject dealt with therein is covered by the new Article 15 and by Article 74. The delegation of Chile favoured its retention pending the World Conference."

Paragraph 2

1. The delegation of Argentina proposes (document 11/Add.3) the deletion of the words "in order to facilitate frontier traffic" in sub-paragraph (a).
2. The delegation of the United Kingdom proposes (document 11/Add.8) that the first proviso in sub-paragraph (b) should begin as follows:

"Provided that the duties and other regulations of commerce imposed by at the institution of, or any margins of preference maintained by, any such union or agreement in respect of trade with Members of the Organization, shall not....."

3. The delegation of Argentina proposes (document 11/Add.3) the addition of the following sub-paragraph:

"(c) The formation of a group of complementary economies co-operating on a compensatory basis and on the basis of equality of treatment."

4. The delegation of Lebanon and Syria propose (document 11/Add.14) the addition of the following sub-paragraph:

"(c) The formation of a free trade area by the conclusion of a free trade agreement involving the substantial elimination of tariffs and other restrictive regulations of commerce between Members belonging to the same economic region."

Paragraph 3 (a)

The delegation of Argentina proposes (document 11/Add.3) that the words "shall consult with the Organization and shall make available to it such information" be replaced by "may consult with the Organization and, in that case, shall make available to the Organization such information".

Paragraph 3 (b) and (c)

The delegation of Argentina proposes (document 11/Add.3) that these two sub-paragraphs be deleted.

/Article 43 - General

Article 43 - General Exceptions to Chapter IV

GENERAL

The delegations of India and Pakistan maintain the views recorded in the Geneva Report, that a Member should be allowed temporarily to discriminate against the trade of another Member when this is the only effective measure open to it to retaliate against discrimination practiced by that Member in matters outside the purview of the Organization, pending a settlement of the issue through the United Nations.

Paragraph 1

The note by the delegation of Norway, recorded in the Geneva Report, has been withdrawn.

Sub-paragraph I (g)

The delegation of Australia reserves its position pending an interpretation of this sub-paragraph in relation to certain restrictions which the Australian Government imposes.

Sub-paragraph I (i)

The delegation of Argentina proposes (document 11/Add.3) the deletion of the last part of this sub-paragraph beginning with the words "during periods".

Sub-paragraph II (a)

The delegation of Argentina proposes (document 11/Add.3) the deletion of the proviso.

Sub-paragraph II (b)

The delegation of Norway suggested at Geneva that provisions relating to permanent price regulations ought to be included in the Charter and now intends to submit a proposal to the Committee.

Sub-paragraph II (c)

The delegation of Argentina proposes (document 11/Add.3) the deletion of the proviso.

Final paragraph

The delegation of Argentina proposes (document 11/Add.3) the deletion of the proviso.

NEW ARTICLE IN SECTION F

The delegation of Switzerland has proposed (document 11/Add.12) that the following new paragraph be added to Section F:

"A Member, unable to invoke the provisions of Article 21 and finding that its economic stability, particularly in the fields of agriculture or employment, is being seriously impaired or gravely threatened, may take such steps as are necessary for safeguarding its vital interests."