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DRAFTING COMMITTEE OF THE PREPARATORY COMMITTEE
OF THE INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

ADMINISTRATIVE PROVISIONS

(Covered in Report of Technical Sub-Committee of
First Session of Preparatory Conference in London)

Suggestions by Canadian Delegation

ARTICLE XVII (Anti-Dumping and Countervailing Duties)

It is suggested that in determining dump, while method (a) should be mandatory if possible (as in the original draft) nevertheless methods (b) and (c) should be alternative, either of which may be used at the option of the country imposing the anti-dumping duty, provided method (a) is inapplicable because of the absence of any domestic price.

The purposes of this amendment is to allow members to protect themselves against dumping by a country which dumps into all other countries at a uniform price and which has no relevant domestic price. It is believed that this is the intention but that unless some such amendment as that suggested below is adopted this intention will be frustrated.

Paragraph 1

"No anti-dumping duty or charge shall be imposed on any product of any member country imported into any other member country in excess of an amount equal to the margin of dumping under which such product is being imported. For the purposes of this Article, the margin of dumping shall be understood to mean the amount by which the price of a product exported from one country to another is less than (a) the comparable price charged for the like product to buyers in the domestic market of the
/exporting country,

exporting country, or [(B)] in the absence of such domestic price, either (b) the highest comparable price at which the like product is sold for export to any and every purchaser in any third country in the ordinary course of commerce, or (c) [in the absence of (a) and (b)] the cost of production of the product in the country of origin plus a reasonable addition for selling cost and margin of profit; with due allowance in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability."

ARTICLE XVII

Paragraph 5

"Each member undertakes that as a general rule it will not impose any anti-dumping [duty] or countervailing [duty] duties or charges on the importation of any product of other member countries unless it determines that the dumping or subsidization, as the case may be, under which such product is imported, is such as to injure [threaten to injure] a domestic industry supplying a reasonable percentage of the normal domestic consumption of the commodity in question, [or is such as to prevent the establishment of a domestic industry.]"

The purpose of this suggestion is to preclude the use of anti-dumping or countervailing duties or charges for the protection of an infant industry or unborn industry. Legitimate protection for such cases is dealt with in other articles, and the use of anti-dumping or countervailing duties would be an illegitimate extension of this article to cover purposes which are not properly within its purview.

/ARTICLE XVIII

ARTICLE XVIII (TARIFF VALUATION)

Paragraph 2

"The Members recognize the validity of the following general principles of tariff valuation, and they undertake to revise their Customs laws and regulations where necessary to give effect to such principles, in respect of all products subject to duty based upon or regulated by value, at the earliest practicable date".

Paragraph 2(a)

"The value for duty of imported products should be based on the actual value at which, in the usual and ordinary course of trade, [of] the kind of imported merchandise on which duty is assessed is sold or offered for sale in comparable quantities and under similar conditions of sale, or the nearest ascertainable equivalent of such value [and]. The value for duty purposes should not be based on the value of products of national origin or on arbitrary or fictitious valuations."

(The purpose of the Canadian delegation in suggesting this amendment is to make perfectly clear the meaning of the phrase "actual value", which is so vague as to be meaningless without further amplification).

ARTICLE XIX (CUSTOMS FORMALITIES)

Paragraph 2

"Members undertake to [review] revise their Customs laws and regulations where necessary with a view to giving effect to the principles and objectives of paragraph 1 of this Article at the earliest practicable date and shall report to the organization from time to time on the progress made. The Organization is authorized to request such reports from Members and to assist and co-operate with them in carrying out the provisions of this paragraph."

/Paragraph 3

Paragraph 3.

"Greater than nominal penalties over and above the duty properly payable should not be imposed by any member in connection with the importation of any product of any other Member country because of errors in documentation which are obviously clerical in origin or with regard to which good faith can be established. Moreover, Members shall remit any penalty, over and above the duty properly payable had no error been made, imposed on or in connection with the importation of any product of any other Member country if it is officially found that the penalty has been imposed because of actions which resulted from errors or advice of responsible Customs officials."

(The purpose of this suggestion is to make clear the meaning of the word "penalty").

ARTICLE XX (MARKS OF ORIGIN)

Paragraph 5

"The Members undertake to work toward the uniform adoption of a schedule of general categories of products which alone shall not in any case be required to be marked to indicate their origin. With a view to furthering this work, the Organization is authorized to investigate and recommend to Members descriptions of categories of products in respect of which marking requirements operate to restrict trade in a degree disproportionate to any proper purpose to be served."

(The purpose of this suggested amendment is to restrict marking requirements by the adoption of positive lists, rather than negative lists as envisaged in the original text. The Canadian delegation would be glad to see the standstill altogether of requirements of marks of origin.)

ARTICLE XXI (PUBLICATION AND ADMINISTRATION OF TRADE REGULATIONS)

Paragraph 2

(First two sentences) "Members shall administer in a uniform, impartial, and reasonable manner all laws, regulations, decisions and /rulings

rulings of the kind described in paragraph 1 of this Article. Moreover, they undertake to maintain, or to establish as soon as practicable, for the review and correction of administrative action relating to customs matters, judicial or administrative tribunals which are in fact independent of the agencies which are entrusted with administrative enforcement, and whose decision shall be binding upon such agencies."

ARTICLE XXIII (BOYCOTTS)

"No Member shall encourage, support, or participate in boycotts or other campaigns which are designed to discourage, directly or indirectly, the consumption within its territory of products of other member countries / any specific member country or countries on grounds of origin, or the sale of products for consumption within other member countries on grounds of destination."

ARTICLE XXIV (GENERAL EXCEPTIONS TO CHAPTER V)

"Nothing in Chapter V shall be construed to prevent the adoption or enforcement by any member of measures" (or, preferably in the opinion of the Canadian delegation, the alternative words suggested at London by the United Kingdom delegation):

"(a) necessary to protect public morals, where similar restrictions are imposed on domestic production and sale.

(b) necessary to protect human, animal, or plant life or health where similar restrictions are imposed on domestic consumption and sales;

(The purpose of these additional words is to prevent abuse of exceptions (a) and (b) for purposes of disguised protection.)

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(h) relating to prison-made goods / the products of prison-labour.

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(k) relating to the export of electric power.

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