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DRAFTING COMMITTEE OF THE PREPARATORY COMMITTEE OF THE UNITED
NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

SENTATIVE AND NON-COMMITTAL DRAFT SUGGESTED BY
THE DELEGATION OF THE UNITED STATES

GENERAL AGREEMENT ON TARIFFS AND TRADE

The governments in respect of which this Agreement is signed,

Having been named by the Economic and Social Council of the United Nations to prepare, for the consideration of the International Conference on Trade and Employment, a Charter for an International Trade Organization of the United Nations;

Having, as the Preparatory Committee for the Conference, recommended to the Conference the provisions of such a Charter, the text of which is set forth in the Report of the Preparatory Committee; and

Being desirous of furthering the objectives of the Conference by providing an example of concrete achievement capable of generalization to all countries on equitable terms;

Have, through their respective Plenipotentiaries, agreed as follows:

Article I

General Most-Favoured-Nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation or exportation, and with respect to all matters provided for in Article II, any advantage, favour, privilege or immunity granted by any contracting state to any product originating in or destined for any other country, shall be accorded immediately and unconditionally to the like product originating in or destined for all other contracting states
/respectively.

respectively.

2. Note: This paragraph, relating to exceptions for preferences of certain categories remaining after negotiations, would be agreed upon after the negotiations at the Geneva meeting have been completed. Meanwhile, the provisions of paragraph 2 of Article 14 and Article 24 of the draft Charter would apply.]

Article II

National Treatment on Internal Taxation and Regulation

1. The contracting states agree that neither internal taxes nor other internal charges nor internal laws, regulations or requirements should be used to afford protection directly or indirectly for any national product.
2. The products of any contracting state imported into any other contracting state shall be exempt from internal taxes and other internal charges of any kind higher than those imposed, directly or indirectly, on like products of national origin.
3. The products of any contracting state imported into any other contracting state shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations or requirements affecting their internal sale, offering for sale, transportation, distribution or use of any kind whatsoever. The provisions of this paragraph shall be understood to preclude the application of internal requirements restricting the amount or proportion of an imported product permitted to be mixed, processed or used: Provided, that any such requirement in force on the day of the signature of this Agreement may, subject to the provisions of Article VI, be continued until the expiration of one year from the day on which this Agreement enters into force, which period may be extended in respect of any product if the Committee provided for in Article , hereinafter referred to as "the Committee" concurs that the requirement concerned is less restrictive of international trade than other measures permissible under this Agreement.

4. The provisions

4. The provisions of paragraphs 1 and 3 of this Article shall not be construed to prevent the application, consistently with the provisions of Article VI, of internal regulations or requirements relating to the exhibition of cinematograph films.

5. The provisions of this Article shall not apply to the procurement by governmental agencies of supplies for governmental use and not for resale or for the production of goods for sale.

Article III

Freedom of Transit

Note: On the basis of the discussion in the Technical Sub-Committee, two texts were provisionally approved, one (a) referring to goods only and the other (b) to goods and means of transport. Only alternative (b) is given in this working paper.

1. Baggage and goods, and also vessels and other means of transport shall be deemed to be in transit across the territory of a contracting state when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey, beginning and terminating beyond the frontier of the contracting state across whose territory the traffic passes. Traffic of this nature is termed in this Article "traffic in transit". The provisions of this Article shall not apply to the operation of aircraft in transit.

2. There shall be freedom of transit through the contracting states, via the routes most convenient for international transit, for traffic in transit to or from other contracting states. No distinction shall be made which is based on the nationality of persons, the flag of vessels, the place of origin, departure, entry, exit or destination, or any circumstances relating to the ownership of goods or of vessels or other means of transport.

3. Any contracting state may require that traffic in transit through its territory be entered at the proper customs house, but except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to other contracting states shall not be subject to any

/unnecessary

unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

4. All charges and regulations imposed by contracting states on traffic in transit to or from other contracting states shall be reasonable, having regard to the conditions of the traffic.

5. With respect to all charges, rules, and formalities in connection with transit, each contracting state shall accord to traffic in transit to or from any other Member country treatment no less favourable than the treatment accorded to traffic in transit to or from any country.

6. Each contracting state shall accord to products which have been in transit through any contracting state treatment no less favourable than that which would have been accorded to such products had they been transported from their origin to their destination without going through such other contracting state. Any contracting state shall, however, be free to maintain the existing requirements of direct consignment (expedition directe) in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of goods at preferential rates of duty, or has relation to the country's prescribed method of valuation for duty purposes.

Article IV

Anti-dumping and Countervailing Duties

1. No anti-dumping duty or charge shall be imposed on any product of any contracting state imported into any other contracting state 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 the 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, or, /in the absence

in the absence of such domestic price, either (b) the highest comparable price at which the like product is sold for export to any third country in the ordinary course of commerce, or (c) 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 of conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. No countervailing duty shall be imposed on any product of any contracting state imported into another contracting state in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the production or export of such product in the country of origin or exportation. The term "countervailing duty" shall be understood to mean an additional duty imposed for the purpose of offsetting any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or exportation of any merchandise.

3. No product of any contracting state imported into any other contracting state shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes imposed in the country of origin or exportation upon the like product when consumed domestically, or by reason of the refund of such duties or taxes.

4. No product of any contracting state imported into any other contracting state shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsidization.

5. No contracting state shall impose any anti-dumping or countervailing duty or charges on the importation of any product of other contracting states unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to materially injure or threaten to injure an established domestic industry, or is such as to prevent the establishment of a domestic industry.

/6. Nothing in

6. Nothing in this Article shall preclude contracting states from incorporating in a regulatory commodity agreement conforming to Chapter VII of the draft Charter for an International Trade Organization referred to in the preamble to this Agreement, provisions prohibiting, as between contracting states party to such a commodity agreement, the use of anti-dumping duties in cases in which dumping, within the meaning of paragraph 1 of this Article, may be permitted under the terms of such an agreement.

7. Any contracting state maintaining restrictions against forms of dumping other than 'price dumping', e.g. freight dumping or dumping by means of depreciation of currency, shall only impose such dumping duties where it has determined after enquiry that the method and extent of dumping against which action is taken is such as to injure or threaten to injure an established domestic industry.]

Article V

Publications and Administration of Trade Regulations - Advance Notice of Restrictive Regulations

1. Laws, regulations, decisions of judicial authorities and administrative rulings of general application made effective by any contracting state, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale or distribution, transportation and insurance, or affecting their warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable traders and Governments to become acquainted with them. Agreements in force between the Government or a Governmental agency of any contracting state country, and the Government or a Governmental agency of any other country affecting international trade policy shall also be published. This paragraph shall not require any

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contracting state to publish administrative rulings which would disclose confidential information, impede law enforcement, or otherwise be contrary to the public interest.

2. Each contracting state shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article.

3. No administrative ruling of any contracting state affecting an advance in a rate of import duty or other charge under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefore, shall, as a general rule, and within the limits of administrative practicability, be applied to products of any other contracting state already en route at the time of publication thereof in accordance with paragraph 1 of this Article: Provided, that if any contracting state customarily exempts from such new or increased obligation products entered for consumption or withdrawn from warehouse for consumption during a period of thirty days after the date of such publication, such practice shall be considered in full compliance with this paragraph. The provisions of this paragraph shall not apply to anti-dumping or countervailing duties.

4. Except in cases of serious negligence, greater than nominal penalties over and above the duty properly payable should not be imposed by any contracting state in connection with the importation of any product of any other contracting state because of errors in documentation which are obviously clerical in origin or with regard to which good-faith can be established.

Article VI

Schedules of Concessions on Particular Products

1. Each contracting state shall accord to the commerce of the other contracting states the treatment provided for in the appropriate Schedule annexed to this Agreement and made an integral part thereof.

//Note:

[Note: It is contemplated that there would appear at an appropriate place in each of the Schedules a provision along the following lines: "The products of the contracting states, enumerated and described in this Schedule, shall, on their importation into [name of country] be exempt from ordinary customs duties in excess of those set forth and provided for in this Schedule, subject to the conditions therein set out. Such products shall also be exempt from all other duties or charges imposed on or in connection with importation, in excess of those imposed on the day of the signature of this Agreement or required to be imposed thereafter under laws of [name of country] in force on that day: Provided, that this sentence shall not prevent the Government of [name of country] from imposing at any time on the importation of any product a charge equivalent to an internal tax imposed in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part."]

2. No contracting state shall alter the general principles applicable in its territory for determining dutiable value and converting currencies so as to impair the value of any of the concessions provided for in the appropriate Schedule annexed to this Agreement.

3. If any contracting state, after the day of the signature of this Agreement, establishes or authorizes, formally or in fact, an effective monopoly of the importation of any product for which a maximum rate of duty is provided in the appropriate Schedule annexed to this Agreement, the price for such imported product charged by the monopoly in the home market shall not exceed the landed cost (before payment of any duty) by more than such maximum duty; after due allowance for internal taxes, transportation, distribution and other expenses incident to purchase, sale or further processing and for a reasonable margin of profit corresponding generally to that prevailing in respect of sales of the like domestic product. For the purpose of applying this margin regard may be had to

/average

average landed costs and selling prices of the monopoly over recent periods.

The monopoly shall, as far as administratively practicable, and subject to the other provisions of this Agreement, import from contracting states and offer for sale at prices charge within such maximum margin such quantities of the product as will be sufficient to satisfy the full domestic demand for the imported product, account being taken of any rationing to consumers of the imported and like domestic product which may be in force at that time.

Article VII

With regard to those provisions of the draft Charter for an International Trade Organization which relate to negotiations for concessions on particular products, the contracting states declare that they have, by virtue of Article VI of this Agreement, taken this step towards fulfilment of the obligations of these provisions and that they stand ready, in conformity with the spirit of these provisions, to undertake similar negotiations with such other governments as may desire to become Members of the International Trade Organization.

Article VIII

General Elimination of Quantitative Restrictions

1. Except as otherwise provided in this Agreement, no prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import licenses or other measures, shall be imposed or maintained by any Member on the importation of any product of any other contracting state or on the exportation or sale for export, of any product destined for any other contracting state.

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

(a) Prohibitions or restrictions on imports or exports imposed or maintained during the early post-war transitional period, which are essential to

(1) the equitable distribution among the several consuming

/countries

countries of products in short supply; whether such products are owned by private interests or by the government of any contracting state;

(ii) the maintenance of wartime price control by a country undergoing shortages subsequent to the war;

(iii) the orderly liquidation of temporary surpluses of stocks

owned or controlled by the government of any contracting state or of industries developed in the territory of any contracting state owing to the exigencies of the war, which it would be uneconomic to maintain in normal conditions:

Provided, that restrictions for this purpose may not be instituted by any Member after the date on which this Agreement enters into force except after consultation with other interested contracting states with a view to appropriate international action.

Import and export prohibitions and restrictions imposed or maintained under this sub-paragraph shall be removed as soon as the conditions giving rise to them have ceased, and in any event, not later than 1 July 1949:

Provided, that this period may, with the concurrence of the Committee, be extended in respect of any product for further periods not to exceed six months each.

(b) Export prohibitions or restrictions temporarily imposed to relieve critical shortages of foodstuffs or other essential products in the exporting country.

(c) Import and export prohibitions or restrictions necessary to the application of standards for the classification and grading of commodities in international commerce.

(d) Export or import quotas imposed under inter-governmental commodity agreements conforming to the principles of Chapter VII of the draft Charter for an International Trade Organization referred to in the Preamble to this Agreement.

/(e) Import

(e) 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.

3. Any contracting state imposing restrictions on the importation of any product pursuant to sub-paragraph (e) or paragraph 2 shall give public notice of the total quantity or value of the product permitted to be imported during a specified period and of any change in such quantity or value Provided, that any supplies of the product in question, which were en route at the time at which public notice was given, shall not be excluded but may be counted, so far as practicable, against the quantity permitted to be imported in the period in question. Moreover, any restrictions imposed under (i) of sub-paragraph (e) 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 contracting state 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 contracting state shall consult with any other contracting states which are interested in the trade in question and which wish to initiate such consultations.

Article IX

Restrictions to Safeguard the Balance of Payments

1. Contracting states may need to use import restrictions as a means of

/safeguarding

safeguarding their external financial position or as a step toward the restoration of equilibrium in their balance of payments on a sound and lasting basis, particularly in view of their increased demand for imports needed to carry out their domestic employment, reconstruction, development or social policies. Accordingly, notwithstanding the provisions of Article VIII, any contracting state may restrict the quantity or value of merchandise permitted to be imported in so far as this is necessary to safeguard its balance of payments or monetary reserves.

2. The use of import restrictions under paragraph 1 shall be subject to the following requirements:

(a) No contracting state shall impose new restrictions or intensify existing restrictions except to the extent necessary to stop or to forestall the imminent threat of a serious decline in the level of its monetary reserves or, in the case of a contracting state with very low monetary reserves, to achieve a reasonable rate of increase in its reserves; due allowance being made in each case for any special factors which may be affecting the level of the contracting state's reserves, for any commitments or other circumstances which may be affecting its need for reserves, and for any special credits or other resources which may be available to protect its reserves,

(b) Contracting states shall eliminate the restrictions when conditions would no longer justify the imposition of new restrictions under sub-paragraph (a), and shall relax them progressively as such conditions are approached.

(c) Contracting states shall not apply the restrictions in such a manner as to exclude completely imports of any class of goods.

3. (a) Any contracting state which is not maintaining restrictions under paragraphs 1 and 2 but which is considering the need for their imposition, shall, before imposing such restrictions (or, in circumstances in which prior consultation is impracticable, immediately

/following

following upon the imposition of such restrictions) consult with the Committee as to the nature of its balance of payments difficulties, the various corrective measures which may be available, and the possible effects of such measures on the economies of other contracting states. The Committee shall invite the International Monetary Fund to participate in the consultations. No contracting state shall be required during such discussions to indicate in advance the choice or timing of any particular measures which it may ultimately determine to adopt.

(b) The Committee may at any time invite any contracting state applying import restrictions under paragraphs 1 and 2 to consult with it about the form or extent of the restrictions, and shall invite a contracting state substantially intensifying such restrictions to consult accordingly within thirty days. Contracting states thus invited shall participate in such discussions. In the conduct of such discussions the Committee shall consult the International Monetary Fund and any other appropriate ^{/specialized inter-governmental} ~~intergovernmental~~ organization, agencies, [/] in particular with regard to the alternative methods available to the contracting state in question of meeting its balance of payments difficulties. The Committee shall, not later than two years from the day on which this Agreement enters into force, review all restrictions existing on that day and still maintained under paragraphs 1 and 2 at the time of the review.

(c) Any contracting state may consult with the Committee with a view to obtaining the prior approval of the Committee for restrictions which the contracting state proposes, under paragraphs 1 and 2 to maintain, intensify or impose, or for the maintenance, intensification or imposition of restrictions under specified future conditions. The Committee shall invite the International Monetary Fund to participate in the consultations. As a result of such consultations,

/the Committee

the Committee may approve in advance the maintenance, intensification or imposition of restrictions by the contracting state in question in so far as the general extent, degree and duration of the restrictions are concerned. To the extent to which such approval has been given, the action of the contracting state applying restrictions shall not be open to challenge under sub-paragraph (d), on the ground that such action is inconsistent with the provisions of paragraphs 1 and 2.

(d) Any contracting state, which considers that any other contracting state is applying import restrictions under paragraphs 1 and 2 in a manner inconsistent with the provisions of those paragraphs or of Articles X and XI, or in a manner which unnecessarily damages its commercial interests, may bring the matter for discussion to the Committee. The contracting state applying the restrictions shall then participate in discussions of the reasons for its action. The Committee shall, if it is satisfied that there is a prima facie case that the complaining contracting state's interests are adversely affected, consider the complaint. It may then, after consultation with the International Monetary Fund on any matter falling within the competence of the Fund, and, if it considers desirable, after submitting observations to both parties with the aim of achieving a satisfactory settlement of the matter in question, recommend the withdrawal or modification of restrictions which it determines are being applied in a manner inconsistent with the provisions of paragraphs 1 and 2 or of Articles X and XI or in a manner which unnecessarily damages the interests of another contracting state. If the restrictions are not withdrawn or modified in accordance with the recommendation of the Committee within sixty days, such other contracting state shall be released from such obligations incurred under this Agreement towards the contracting state applying the restrictions as the Committee may approve.

/(e) The Committee

(e) The Committee in reaching its decision under sub-paragraph (d) shall not recommend the withdrawal or general relaxation of restrictions on the ground that the existing or prospective balance of payments difficulties of the contracting state in question could be avoided by a change in that contracting state's domestic employment, reconstruction, development or social policies. In carrying out such domestic policies, however, contracting states shall pay due regard to the need for restoring equilibrium in the balance of payments on a sound and lasting basis.

4. In giving effect to the restrictions on imports under this Article, a contracting state may select imports for restriction on the grounds of the essentiality of other imports to essentiality in such a way as to give priority to imports required by its domestic employment, reconstruction, development or social policies and programmes. In so doing the contracting state shall avoid all unnecessary damage to the commercial interests of other contracting states.

5. If there is persistent and widespread application of import restrictions under this Article, indicating the existence of a general disequilibrium which is restricting international trade, the Committee shall seek consultation with the International Monetary Fund. The Committee may then, in collaboration throughout with the Fund, initiate discussions to consider whether other measures might not be taken, either by those countries whose balances of payments are under pressure or by those countries whose balances of payments are tending to be exceptionally favourable, or by any appropriate inter-governmental agency or organization to remove the underlying causes of the disequilibrium. On the invitation of the Committee contracting states shall participate in such discussions.

6. Throughout this Article and Articles X and XI the phrase "import restrictions" includes the restriction of imports by state-trading organizations to an extent greater than that which would be permissible under Article VI.

7. Contracting states recognize that in the early years of this Agreement all of them will be confronted, in varying degrees, by problems of economic adjustment resulting from the war. During this period the Committee shall, when required to take decisions under this Article or under Article XI, take full account of the difficulties of post-war adjustment.

Article X

Non-Discriminatory Administration of Quantitative Restrictions

1. No prohibition or restriction shall be applied by any Member on the importation of any product of any other contracting state or on the exportation of any product destined for any other contracting state, unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted.

2. Contracting states shall observe the following provisions in applying import restrictions:

(a) The administration of the restrictions should be carried out in such a way as to result in a distribution of trade which approaches as closely as possible to the share which the various contracting states might be expected to obtain as the result of international competition in the absence of restrictions.

(b) Wherever practicable, quotas representing the total amount of permitted imports (whether allocated among supplying countries or not) shall be fixed, and notice given of their amount in accordance with sub-paragraph 3 (b).

(c) In cases in which quotas are not practicable, the restrictions may be applied by means of import licenses or permits without a quota.

(d) Import licenses or permits, whether or not issued in connection with quotas, shall not (save for purposes of operating quotas allocated

/in accordance

in accordance with sub-paragraph (e)) require or provide that the license or permit be utilized for the importation of the product concerned from a particular country or source.

(e) In cases in which a quota is allocated among supplying countries, the shares of the various supplying contracting states should in principle be determined in accordance with commercial considerations such as, e.g., price, quality and customary sources of supply. For the purpose of appraising such commercial considerations, the contracting states applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other contracting states having a substantial interest in supplying the product concerned. In cases in which this method is not reasonably practicable, the contracting state concerned shall allot to contracting states having a substantial interest in supplying the product, shares based upon the proportions of the total quantity or value of the product supplied by such contracting states during a previous representative period, due account being taken of any special factors which may have affected or may be affecting the trade in the product.

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

(b) In the case of import restrictions involving the fixing of quotas (whether or not allocated among supplying countries), the

/contracting

contracting state applying the restrictions shall give public notice of the total quantity or value of the product or products, which will be permitted to be imported during a specified future period and of any change in such quantity or value.

(c) In the case of quotas allocated among supplying countries, the contracting state applying the restriction shall promptly inform all other Members having an interest in supplying the product concerned of the share in the quota, by quantity or value, currently allocated to the various supplying countries.

4. With regard to restrictions imposed in accordance with sub-paragraph (e) of paragraph 2 of this Article or under sub-paragraph (e) of paragraph 2 of Article IX, the selection of a representative period for any product and the appraisal of any special factors affecting the trade in the product shall be made initially by the contracting state imposing the restriction. Provided that such contracting state shall, upon the request of any other contracting state having a substantial interest in supplying that product or upon the request of the Committee, consult promptly with the other contracting state or with the Committee regarding the need for an adjustment of the base period selected or for the re-appraisal of the special factors involved.

5. The provisions of this Article shall apply to (a) any export restrictions and (b) any tariff quota established or maintained by any contracting state.

Article XI

Exceptions to the Rule of Non-Discrimination

1. The provisions of Articles VIII, IX and X shall not preclude (a) restrictions with equivalent effect to exchange restrictions authorized under Section 3 (b) of Article VII of the Articles of Agreement of the International Monetary Fund;

/(b) prohibitions

(b) prohibitions or restrictions in accordance with sub-paragraphs 2 (a) (i) or 2 (d) of Article VIII;

(c) conditions attaching to exports which are necessary to ensure that an exporting country receives for its exports its own currency or the currency of any member of the International Monetary Fund specified by the exporting country;

(d) restrictions in accordance with Article IX which either

(i) are applied otherwise consistently with Article X against imports from other countries by a group of territories with common quota in the International Monetary Fund or

(ii) assist in the period until 31 December 1951, by measures not involving substantial departure from the provisions of Article X, a country whose economy has been disrupted by war both

(iii) provide a contracting state with additional imports above the maximum total of imports which it could afford in the light of the conditions in paragraph 2 of Article IX, if its restrictions were consistent with Article X, and

(iv) have equivalent effect to exchange restrictions, which are permitted to that contracting state under the Articles of Agreement of the International Monetary Fund or under the terms of any special exchange agreement, which may have been made between the contracting state and the Committee under Article XII: Provided, that a contracting state, which is not imposing restrictions on payments and transfers for current international transactions, may apply import restrictions under (iii) of this sub-paragraph in special circumstances and only with the prior approval of the Committee in agreement with the International Monetary Fund.

/2. If the

2. If the Committee finds, after consultation with the International Monetary Fund on matters within the competence of the Fund, that import restrictions or exchange restrictions on payments and transfers in connection with imports are being applied by a contracting state in a discriminatory manner inconsistent with the exceptions provided under this Article or in a manner which discriminates unnecessarily against the trade of another contracting state, the contracting state shall within sixty days remove the discriminations or modify them as specified by the Committee: Provided, that a contracting state may, if it so desires, consult with the Committee to obtain its previous approval for discriminations, under the procedure set forth in paragraph 3 (c) of Article IX and to the extent that such approval is given, the discriminations shall not be open to challenge under this paragraph.

3. When three-quarters of the contracting states of the Organization have accepted the obligations of Article VIII of the Articles of Agreement of the International Monetary Fund, but in any event before 31 December 1951, the Committee shall review the operations of this Article, in consultation with the International Monetary Fund, with a view to the earliest possible elimination of discriminations, under sub-paragraphs 1 (d), (iii) and (iv) of this Article, which restrict the expansion of world trade.

Article XIII

Exchange Arrangements

1. The Committee shall seek co-operation with the International Monetary Fund to the end that the Committee and the Fund may pursue a co-ordinated policy with regard to exchange questions within the competence of the Fund and questions of quantitative restrictions or other trade measures within the competence of the Committee.

2. Contracting states shall not seek by exchange action to frustrate the provisions of this Agreement and shall not seek by trade action to frustrate /the provisions

the provisions of the Articles of Agreement of the International Monetary Fund.

3. In order to avoid the imposition of trade restrictions and discriminations through exchange techniques and in order to avoid the danger of conflicting jurisdiction between the Committee and the International Monetary Fund in exchange matters, the contracting states shall also undertake membership of the International Monetary Fund: Provided; that any country which is not a member of the International Monetary Fund may accept this Agreement if, upon acceptance, it undertakes to enter into a special exchange agreement with the Committee which would become part of its obligations under this Agreement: And provided further, that a contracting state which ceases to be a member of the International Monetary Fund shall forthwith enter into a special exchange agreement with the Committee, which shall then become part of its obligations under this Agreement.

4. A special exchange agreement between a contracting state and the Committee under paragraph 3 must provide to the satisfaction of the Committee, in collaboration throughout with the International Monetary Fund, that the purposes common to the Committee and the Fund will not be frustrated as a result of action in exchange matters by the contracting state in question.

5. A contracting state which has made a special exchange agreement under paragraph 3 of this Article, undertakes to furnish the Committee with such information as it may require, within the general scope of Section 5 of Article VIII of the Articles of Agreement of the International Monetary Fund, in order to carry out its functions relating to this special exchange agreement.

6. The Committee shall seek and accept the opinion of the International Monetary Fund as to whether action by the contracting state in exchange

/matters

matters is permissible under the terms of the special exchange agreement and shall act in collaboration with the International Monetary Fund on all questions which may arise in the working of a special exchange agreement under this Article.

Article XIII

General Undertaking Regarding Subsidies

If any contracting state grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into its territory, the contracting state shall notify the Committee in writing as to the extent and nature of the subsidization, as to the estimated effect of the subsidization on the quantity of the affected product or products, imported into or exported from the territory of the contracting state and as to the conditions making the subsidization necessary. In any case in which it is determined, by consultation through the Committee among the contracting states having an important interest in the trade in the product concerned, that serious prejudice to the interest of any other contracting state is caused or threatened by any such subsidization, the contracting state granting the subsidization shall, upon request, discuss with the other contracting state or contracting states concerned, or with the Committee, the possibility of limiting the subsidization.

Article XIV

Non-Discriminatory Administration of State-Trading Enterprises

1. If any contracting state establishes or maintains a state enterprise, wherever located, which imports, exports, purchases, sells, or distributes any product, or if any contracting state grants exclusive or special privileges, formally or in effect, to any enterprise to import, export,

/purchase,

purchase, sell, distribute or produce any product, the commerce of other contracting states shall be accorded treatment no less favourable than that accorded to the commerce of any country other than that in which the enterprise is located in respect of the purchase or sale by such enterprise of any product. To this end such enterprise shall, in making its external purchases or sales of any product, be influenced solely by commercial considerations, such as price, quality, marketability, transportation and other terms of purchase or sale; and also any differential customs treatment maintained consistently with the other provisions of this Agreement.

2. The provisions of paragraph 1 relating to purchases or imports by state enterprises shall apply to purchases or imports of products for re-sale ~~or for the production of goods for sale~~. With respect to purchases or imports by state enterprises of products for governmental use and not for re-sale ~~or for the production of goods for sale~~ contracting states shall accord to the commerce of other contracting states fair and equitable treatment, having full regard to all relevant circumstances.

3. This Article shall apply to any enterprise, organ or agency in which there is effective control by the Government of a contracting state or over whose trading operations a government ~~is in a position to exercise~~ ~~exercises~~ effective control by virtue of the special or exclusive privileges granted to the enterprise.

Article XV.

Governmental Assistance to Economic Development

1. The contracting states recognize that special governmental assistance may be required in order to promote the establishment or reconstruction of particular industries and that such assistance may take the form of protective measures. At the same time, the contracting states recognize that an unwise use of such protection would impose undue burdens on their ~~own~~ economies

own economies and unwarranted restrictions on international trade and might increase unnecessarily the difficulties of adjustment for the economies of other countries.

2. (a) If a contracting state, in the interest of its programme of economic development, considers it desirable to adopt any protective measure which would conflict with any other provision of this Agreement, it shall so notify the Committee and shall transmit to the Committee a written statement of the considerations in support of the adoption of the proposed measure. The Committee shall promptly inform those contracting states whose trade would be substantially affected by the proposed measure and afford them an opportunity of presenting their views. The Committee shall then promptly examine the proposed measure in the light of the provisions of this Agreement and of the Declaration relating to the Draft Charter for an International Trade Organization annexed thereto, the considerations presented by the applicant contracting state, the views presented by the other contracting states which would be substantially affected by the proposed measure, and such criteria as to productivity and other factors as it may establish, taking into account the stage of economic development or reconstruction of the contracting state,

(b) If, as a result of its examination pursuant to sub-paragraph (a), the Committee concurs in any measure which would be inconsistent with any obligation which the applicant contracting state has assumed under Article VI of this Agreement, or which would tend to nullify or impair the benefit to such other contracting state of any such obligation, the Committee shall sponsor and assist in negotiations between the applicant contracting state and the other contracting state or states which are substantially affected, with a view to obtaining substantial agreement. Upon such agreement being reached

/the Committee

the Committee may release the applicant contracting state from the obligation in question or from any other relevant obligation under this Agreement, subject to such limitations as may have been agreed upon in the negotiations between the contracting states concerned or as the Committee may impose.

(c) If, as the result of its examination pursuant to sub-paragraph (a), the Committee concurs in any measure, other than those provided for in sub-paragraph (b), which would be inconsistent with any other provision of this Agreement, the Committee may, at its discretion, release the applicant contracting state from the obligation in question, subject to such limitations as the Committee may impose.

Article XVI

Emergency Action on Imports of Particular Products

If, as a result of unforeseen developments and of the effect of any obligations or concessions under this Agreement, any product is being imported into the territory of any contracting state in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products (or, in the case of a product which is the subject of a concession with respect to a preference, is being imported under such conditions as to cause or threaten serious injury to producers in a territory which receives or received such preference), the contracting state shall be free to suspend the obligation in respect of such product in whole or in part, or to withdraw or modify the concession to the extent and for such time as may be necessary to prevent such injury.

2. Before any contracting state shall take action pursuant to the provisions of paragraph 1, it shall give notice in writing to the Committee as far in advance as may be practicable and shall afford the Committee and those contracting states having a substantial interest as exporters of the product concerned, an opportunity to consult with it in respect of the proposed action. In critical and exceptional circumstances such action may be taken provisionally without prior consultation: Provided, that consultation shall be effected immediately following upon the taking of such action.

3. If agreement among the interested contracting states with respect to the action is not reached, the contracting state which proposes to take or continue the action, shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting states shall then be free, not later than sixty days after such action is taken, to suspend, upon the expiration of thirty days from the date on which written notice of such suspension is received by the Committee, the application to the trade of the contracting state taking such action, of such substantially equivalent obligations or concessions under this Agreement the suspension of which the Committee does not disapprove. In cases of abuse the Committee may authorize an affected contracting state to suspend concessions or obligations in addition to those which may be substantially equivalent to the action originally taken.

Article XVII

Consultation - Nullification or Impairment

1. Each contracting state will accord sympathetic consideration to, and will afford adequate opportunity for consultation regarding, such representations as may be made by any other contracting state with respect to the operation of customs regulations and formalities, anti-dumping and countervailing duties, quantitative and exchange regulations, subsidies,

/state-trading

state trading operations, sanitary laws and regulations for the protection of human, animal or plant life or health, and generally all matters affecting the operation of this Agreement; and will, in the course of such consultation, provide the other contracting state with such information as will, without prejudicing the legitimate business interests of particular business enterprises, enable a full and fair appraisal of the situation which is the subject of such representations.

2. If any contracting state should consider that any other contracting state is applying any measure, whether or not it conflicts with the terms of this Agreement or of the Declaration relating to the Draft Charter for an International Trade Organization annexed thereto, or that any situation exists, which has the effect of nullifying or impairing any object of this Agreement or of such Declaration, the contracting state or states concerned shall give sympathetic consideration to such written representations or proposals as may be made with a view to effecting a satisfactory adjustment of the matter. If no such adjustment can be effected, the matter may be referred to the Committee, which shall, after investigation, and, if necessary, after consultation with the Economic and Social Council of the United Nations and any appropriate inter-governmental organizations, make appropriate recommendations to the contracting states concerned. The Committee, if it considers the case serious enough to justify such action, may authorize a contracting state or states to suspend the application to any other contracting state or states, of such specified obligations or concessions under this Agreement as may be appropriate in the circumstances. If such obligations or concessions are in fact suspended, any affected contracting state shall then be free, not later than sixty days after such action is taken, to withdraw from this Agreement upon the expiration of sixty days from the date on which written notice of such withdrawal is received by the Committee.

/Article XVIII

Article XVIII

General Exceptions

Subject to the requirement that measures are not applied in such a manner as to constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting state of the measures listed below:

- (a) necessary to protect public morals;
- (b) necessary to protect human, animal or plant life or health;
- (c) relating to fissionable materials;
- (d) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on for the purpose of supplying a military establishment;
- (e) in time of war or other emergency in international relations, relating to the protection of the essential security interests of a Member;
- (f) relating to the importation or exportation of gold or silver;
- (g) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, such as, e.g. those relating to customs enforcement, state monopolies, deceptive practices, and the protection of patents, trade marks and copyrights;
- (h) relating to the products of prison labour;
- (i) imposed for the protection of national treasures of artistic, historic or archaeological value;
- (j) relating to the conservation of exhaustible natural resources if such measures are taken pursuant to international agreements or are made effective in conjunction with restrictions on domestic production or consumption;
- (k) undertaken in pursuance of obligations under the United Nations

/Charter

Charter for the maintenance or restoration of international peace and security.

Article XIX

Territorial Application
Customs Unions - Frontier Traffic

1. The provisions of this Agreement shall apply to the customs territories of the contracting states. If there are two or more customs territories under the jurisdiction of any contracting state, each such customs territory shall be considered as a separate contracting state for the purpose of interpreting the provisions of this Agreement.
2. The provisions of this Agreement shall not be construed to prevent
 - (a) advantages accorded by any contracting state to adjacent countries in order to facilitate frontier traffic; or
 - (b) the formation of a union for customs purposes of any customs territory of any contracting state and any other customs territory:
Provided, that the duties and other regulations of commerce imposed by any such union in respect of trade with other contracting state shall not on the whole be higher or more stringent than the average level of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union.
3. Any contracting state proposing to enter into any union described in sub-paragraph 2 (b) shall consult with the Committee and shall make available to the Committee such information regarding the proposed union as will enable the Committee to make such reports and recommendations to contracting states as it may deem appropriate.
4. The contracting states recognize that there may in exceptional circumstances be justification for new preferential arrangements requiring an exception to the provisions of this Agreement. Any such exception shall be subject to approval by the Committee pursuant to paragraph 4 of Article XI.
5. For the purpose

5. For the purpose of this Article a customs territory shall be understood to mean any area within which separate tariffs or other regulations of commerce are maintained with respect to a substantial part of the trade of such area. A union of customs territories for customs purposes shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that all tariffs and other restrictive regulations of commerce as between the territories of contracting states of the union are substantially eliminated and substantially the same tariffs and other regulations of commerce are applied by each of the contracting states of the union to the trade of territories not included in the union.

Article XX

Functions and Structure of Interim Trade Committee

1. The Interim Trade Committee shall consist of the representatives of the contracting states.
2. The Committee is authorized to perform such functions as are specifically provided for in the other provisions of this Agreement; to provide a mechanism for the settlement of disputes concerning the interpretation of this Agreement or arising out of its operation; and generally to perform any other functions which may be appropriate or necessary for the full implementation of this Agreement.
3. Subject to the provisions of paragraph 4, decisions of the Committee shall be taken by a majority of the representatives present and voting.
4. The Committee may, by a vote of two-thirds of the Members, adopt criteria and procedures for waiving, in exceptional circumstances, obligations incurred under this Agreement.
5. The Committee shall cease to exist upon the establishment of the proposed International Trade Organization, at which time all functions of the Committee provided for in the preceding Articles of this Agreement shall be transferred to the Organization: Provided, That if at the time of the

/establishment

establishment of the Organization any contracting state should not also be a member of the Organization; the contracting state shall consult with a view to assuring an appropriate voice on matters arising under this Agreement by the contracting state in question.

Article XXV

Amendments

1. This Agreement shall be subject to revision, in the light of the provisions of the Charter for an International Trade Organization as approved by the International Conference on Trade and Employment, when such Charter shall have entered into force.
2. Amendments to this Agreement pursuant to paragraph 1 or otherwise shall become effective upon receiving the approval of two thirds of the contracting states. Provided, That these amendments, which involve new obligations on the part of contracting states shall take effect upon acceptance on the part of two-thirds of the contracting states for each contracting state accepting the amendments, and thereafter for each remaining contracting state upon acceptance by it. The Committee may determine that any contracting state which has not accepted an amendment within a period specified by the Committee shall thereupon be obliged to withdraw from the Agreement. In the absence of a determination that a contracting state not accepting an amendment shall be obliged to withdraw from the Agreement, such contracting state shall, notwithstanding the provisions of Article XXIII, be free to withdraw from the Agreement upon the expiration of six months from the day on which written notice of such withdrawal is received by the Secretary-General of the United Nations.

Article XXVI

Entry into force-withdrawal and Termination

1. The original of this Agreement shall be deposited with the Secretary-General of the United Nations, who will furnish certified copies thereof to all interested governments.
2. Each government

2. Each government accepting this Agreement shall deposit an instrument of acceptance with the Secretary-General of the United Nations, who will inform all interested governments of the date of deposit of each instrument of acceptance and of the date on which this Agreement enters into force under paragraph 3.

3. This Agreement shall enter into force on the thirtieth day following the day in which instruments of acceptance have been deposited with the Secretary-General of the United Nations on behalf of [all] [a stated number] of the governments represented on the Preparatory Committee of the International Conference on Trade and Employment.

4. Each government accepting this Agreement does so in respect of its metropolitan territory and of [the oversea] [such other] territories for which it has international responsibility with the exception of those territories which are self-governing in respect of matters provided for in the Agreement. Each accepting government shall notify the Secretary-General of the United Nations of its acceptance of the Agreement on behalf of any such self-governing territory willing to undertake the obligations of the Agreement, and upon the date specified in such notification the provisions of the Agreement shall become applicable to that territory.

5. Each contracting state shall take such reasonable measures as may be available to it to assure observance of the provisions of this Agreement by [subsidiary] [local] governments within its territory.

6. Any contracting state may withdraw from this Agreement after the expiration of three years from the day on which this Agreement enters into force, by written notification addressed to the Secretary-General of the United Nations. The withdrawal shall take effect six months from the date of the receipt of the notification by the Secretary-General.

Article XVIII

The Committee may make arrangements under which governments not members of the Preparatory Committee of the International Conference on Trade and Employment may accept this Agreement on terms to be agreed between such governments and the Committee.