

ARTICLE IV

SPECIAL PROVISIONS RELATING TO CINEMATOGRAPH FILMS

I.	TEXT OF ARTICLE IV	209
II.	INTERPRETATION AND APPLICATION OF ARTICLE IV	210
	(1) "cinematograph films"	210
	(2) <i>Discrimination between films</i>	210
	(3) <i>Concessions on screen quotas</i>	210
	(4) <i>Relationship with Article III</i>	210
III.	PREPARATORY WORK AND SUBSEQUENT MODIFICATIONS	210
IV.	RELEVANT DOCUMENTS	211

I. TEXT OF ARTICLE IV

Article IV

Special Provisions relating to Cinematograph Films

If any contracting party establishes or maintains internal quantitative regulations relating to exposed cinematograph films, such regulations shall take the form of screen quotas which shall conform to the following requirements:

- (a) Screen quotas may require the exhibition of cinematograph films of national origin during a specified minimum proportion of the total screen time actually utilized, over a specified period of not less than one year, in the commercial exhibition of all films of whatever origin, and shall be computed on the basis of screen time per theatre per year or the equivalent thereof;
 - (b) With the exception of screen time reserved for films of national origin under a screen quota, screen time including that released by administrative action from screen time reserved for films of national origin, shall not be allocated formally or in effect among sources of supply;
 - (c) Notwithstanding the provisions of sub-paragraph (b) of this Article, any contracting party may maintain screen quotas conforming to the requirements of sub-paragraph (a) of this Article which reserve a minimum proportion of screen time for films of a specified origin other than that of the contracting party imposing such screen quotas; *Provided* that no such minimum proportion of screen time shall be increased above the level in effect on April 10, 1947;
 - (d) Screen quotas shall be subject to negotiation for their limitation, liberalization or elimination.
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II. INTERPRETATION AND APPLICATION OF ARTICLE IV

(1) *“cinematograph films”*

In discussions in the early 1960s, the United States stated that restrictions against showing foreign television programmes were technically a violation of Article III:4, but that some of the principles of Article IV might apply to them.¹ A Working Party was unable to come to any agreement on the subject.² Several Draft Resolutions proposed in 1962/63 were not adopted.³

In 1991, the United States requested consultations under Article XXII:1 concerning certain measures restricting the showing of non-European films on television. The EEC stated that the question of broadcasting, whether by television or by any other means, belonged essentially to the area of services.⁴

(2) *Discrimination between films*

At Havana an amendment to the Charter provision corresponding to Article IV was withdrawn in view of the interpretation that “The date fixed in sub-paragraph (c) clearly relates only to discriminatory measures as between foreign films, not as between domestic and foreign films”.⁵

(3) *Concessions on screen quotas*

Additional note 2 *ad* item 3708 of the Torquay Schedule XXXIII of the Federal Republic of Germany provided: “Should the Federal Republic of Germany establish a screen quota for the exhibition of films of foreign origin, the Federal Republic would then not maintain or establish any prohibitions or restrictions (other than non-discriminatory rates or charges), whether made effective through quotas, import or export licenses or other measures, on the importation of films which are the product of any other contracting party. Furthermore, should the Federal Republic of Germany establish such screen quota, this should not exceed 27 per cent. It is, however, confirmed herewith that, should a screen quota be instituted as indicated above, and in case the German foreign exchange position demands prohibitions or restrictions, these can only be effected through the non-transfer of proceeds”. In 1956 this concession was withdrawn pursuant to negotiations under Article XXVIII.⁶

(4) *Relationship with Article III*

See Article III:10.

III. PREPARATORY WORK AND SUBSEQUENT MODIFICATIONS

The corresponding provisions in the Havana Charter appear in Article 19, in the New York Draft in Article 15(4) and in the Geneva Draft in Article 19. Article 9 of the US Draft Charter, on national treatment, proposed to treat internal quantitative restrictions on exhibition as a prohibited mixing requirement. While the London Draft Charter included no agreed national treatment provisions (as resolution of these issues was deferred), the New York Drafts of the Charter and the General Agreement dealt with internal quantitative regulations on distribution or exhibition of cinematograph films in a separate paragraph of the article on national treatment.

After discussion at the Geneva session of the Preparatory Committee, provisions substantially identical to those in the present GATT Article IV were drafted by a Special Subcommittee on Films. “The Sub-Committee agreed that the New Zealand renters’ quota is in purpose and effect the equivalent of a screen quota ... This particular quota is in fact a preferential quota of the type referred to in [the Charter provision corresponding to

¹L/1615, L/1646, L/1686.

²L/1741.

³L/1908, L/2120.

⁴C/M/236 p. 34.

⁵Havana Reports, p. 68, para. 80.

⁶SECRET/27, Spec/86/56; 283 UNTS 267.

GATT Article XIV:5(b).]” A note was therefore added to Annex A treating this film quota as a screen quota under Article IV.⁷ The date of 10 April 1947 referred to in sub-paragraph (c) was the opening date of the Geneva session.

At the Review Session, it was agreed to incorporate Article IV into Article III:10, as an amendment contingent on the entry into force of the Protocol Amending Part I and Articles XXIX and XXX of the General Agreement.⁸ However, this Protocol never entered into effect and was formally abandoned at the end of 1967.⁹

IV. RELEVANT DOCUMENTS

London

Other: EPCT/C.II/W.5, 14

New York

Discussion: EPCT/C.6/8
Reports: EPCT/C.6/97 (p. 11)

Geneva

Discussion: EPCT/A/SR.9, 10 (pp. 18-30), 43
EPCT/EC/PV.2/22
EPCT/TAC/SR.10
EPCT/TAC/PV/10+Corr.1, 26
Reports: EPCT/175, 189, 196, 212, 214/Add.1/Rev.1
Other: EPCT/W/312

Havana

Discussion: E/CONF.2/C.3/SR.13, 41
Reports: E/CONF.2/C.3/59

Review Session

Reports: W.9/236, 3S/25

⁷Report of the Special Sub-Committee on Films, EPCT/175.

⁸Protocol Amending the Preamble and Parts II and III of the General Agreement, para. 1(B).

⁹15S/65.