

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

DRAFT REPORTS OF WORKING PARTY 3 (ARTICLE 18)  
AND WORKING PARTY 4 (ARTICLE 19)

I. DRAFT REPORT OF WORKING PARTY 3 (ARTICLE 18)

Working Party 3 (Article 18), consisting of the delegates of Colombia, Cuba, France, the United Kingdom, and the United States, having consulted with a number of the other Members of the Sub-Committee, reports as follows:

A. REVISED TEXT OF ARTICLE 18

National Treatment on Internal Taxation and Regulation

1. The Members recognize that internal taxes and charges, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution, mixture, processing or use of products, should not be applied to imported or domestic products so as to afford protection to domestic production.
- 1 2. The products of any Member country, imported into any other Member country shall be exempt from not be subject, directly or indirectly, to internal taxes and or other internal charges of any kind, in excess of those applied, directly or indirectly, to like domestic products. of national origin. Moreover, in cases in which there is no substantial domestic production of like products of national origin, no Member shall apply new or increased internal taxes on the products of other Member countries for the purpose of affording protection to the production of directly competitive or substitutable products. Moreover, no Member shall otherwise apply internal taxes or charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.
3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2 but which is specifically authorized under a trade agreement, in force on 10 April 1947, in which the import tariff on the taxed product is bound against increase, the Member imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as the Member can obtain release from its trade agreement obligations in order to permit the increase of such tariff to the extent necessary to compensate for the elimination of the protective element of the tax.
- 2 4. The products of any Member country imported into any other Member country shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, /purchase,

purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

3 5. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Member shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

4 6. The provisions of paragraph 3 5 shall not apply to 1:  
(a) any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;  
(b) 7 any 1 other measures of 7 internal quantitative 1 control 7 regulation in force in any Member country on 1 July 1939 1 or 1, 10 April 1947 or on the day on which the Final Act of the United Nations Conference on Trade and Employment is signed,\* at the option of that Member; Provided that any such 1 measure 7 regulation which would be in conflict with the provisions of paragraph 3 5 shall not be modified to the detriment of imports and shall be subject to negotiations for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17 and accordingly shall be treated as a customs duty for the purposes of Article 17.

7. No internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.\*\*

\* If the Conference agrees to delete from Article 100 the words "DONE at.....this.....day of.....One Thousand Nine Hundred and Forty...." and to substitute the words "the date of this Charter shall be the date upon which the Final Act of the United Nations Conference on Trade and Employment is signed", the words "or on the date of this Charter" should be substituted for the words "or on the day on which the Final Act of the United Nations Conference on Trade and Employment is signed".

\*\* The Norwegian delegation reserved its position on paragraph 7 pending the results of the discussion in Sub-Committee E of Committee III of Sub-Committee A's recommendation to amend paragraph 5 of Article 22.

15 8. (a) The

- 5 8. (a) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not ~~for~~ with a view to commercial resale or with a view to use in the production of goods for commercial sale ~~;~~;
- (b) ~~nor~~ The provisions of this Article shall ~~they~~ not prevent the payment of subsidies exclusively to domestic producers, only of subsidies provided for under Article 25, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products.

9. The Members recognize that internal maximum price control systems, even though conforming to the other provisions of this Article, can have effects prejudicial to the interests of Member countries supplying imported products. Accordingly, Members applying such systems shall take account of the interests of exporting Member countries with a view to avoiding to the fullest practicable extent such prejudicial effects.\*

B. RECOMMENDED CONSEQUENTIAL CHANGES

Article 16, Paragraph 1

The following changes are recommended to bring paragraph 1 of Article 16 in line with the revised text of Article 18:

"..... and with respect to all matters ~~referred to in~~ within the scope of paragraphs ~~1~~ and ~~2~~ 2 and 4 of Article 18....."

Article 22, Paragraph 5

If the proposed new paragraph 7 of Article 18 is adopted, paragraph 5 of Article 22 would have to be amended as follows:

"5. The provisions of this Article shall apply to any tariff quota instituted or maintained by any Member and, insofar as applicable, the principles of this Article shall also extend to export restrictions and to any internal regulation or requirements under paragraph 2 of Article 18."

Article 30, Paragraph 2

The Working Party recommends that Sub-Committee A recommend to Committee III that paragraph 2 of Article 30 be amended (a) to bring the wording of paragraph 2 of Article 30 and paragraph 8 (a) of Article 18 in line

\* The Norwegian delegation reserved its position on paragraph 9 both with respect to (a) its inclusion in Article 18 instead of as a separate Article and (b) its substance.

/so as to avoid

so as to avoid difficulties of interpretation, and (b) to extend the "fair and equitable treatment" rule established in paragraph 2 of Article 30 with respect to imports for governmental purposes excepted from the provisions of paragraph 1 of Article 30 to the laws, regulations and requirements relating to procurement for governmental purposes referred to in paragraph 8 (a) of Article 18, as follows:

"2. The provisions of paragraph 1 of this Article shall not apply to imports of products for immediate or ultimate consumption in governmental use and not otherwise for resale or for purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale. With respect to such imports, and with respect to the laws, regulations and requirements referred to in paragraph 8 (a) of Article 18, the Members shall accord to the trade of the other Members fair and equitable treatment."

#### C. INTERPRETATIVE NOTES

##### Article 17

It is understood that an internal tax (other than a general tax uniformly applicable to a considerable number of products) which is applied to a product not produced domestically in substantial quantities would be treated as a customs duty under Article 17 in any case in which a tariff concession on the product would not be of substantial value unless it is accompanied by a binding or a reduction of the tax.\*

##### Article 18

If any internal tax or other internal charge, or any law, regulation or requirement of the kind referred to in paragraph 1, applying to an imported product and to the like domestic product, is collected or enforced in the case of the imported product at the time or point of importation, it is nevertheless to be regarded as an internal tax or other internal charge, or a law, regulation or requirement of the kind referred to in paragraph 1, and is accordingly subject to the provisions of Article 18.

##### Article 18, Paragraph 1

The application of paragraph 1 to internal taxes imposed by local governments within the territory of a Member is subject to the provisions of paragraph 3 of Article 29. The term "reasonable measures" in the last-mentioned paragraph would not require, for example, the repeal of

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\* The Norwegian delegation reserved its position for the time being with respect to this interpretative note.

/existing national

existing national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article 18, are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments concerned. With regard to taxation by local governments which is inconsistent with both the letter and spirit of Article 18, the term "reasonable measures" would permit a Member to eliminate the inconsistent taxation gradually over a transition period if abrupt action would create serious administrative and financial difficulties.

Article 18, Paragraph 2

A tax conforming to the requirements of the first sentence of paragraph 2 would be considered to be inconsistent with the second sentence only in cases where competition was involved between, on the one hand, the taxed product, and on the other hand, a directly competitive or substitutable product which was not similarly taxed.

Article 18, Paragraph 5

Regulations consistent with the first sentence of paragraph 5 shall not be considered to be contrary to the second sentence in any case in which all of the products subject to the regulation are produced domestically in substantial quantities. A regulation cannot be justified as being consistent with the second sentence on the ground that the proportion or amount allocated to each of the products which are the subject of the regulation constitutes an equitable relationship between imported and domestic products.

D. EXPLANATORY PARAGRAPHS TO BE INCLUDED IN THE SUB-COMMITTEE'S REPORT  
TO COMMITTEE III

"The delegations of Chile, Lebanon and Syria inquired whether certain charges imposed by their countries on imported products would be considered as internal taxes under Article 18. The Sub-Committee considered that the charges referred to are import duties and not internal taxes because (a) they are collected at the time of, and as a condition to, the entry of the goods into the importing country, and (b) they apply exclusively to imported products without being related in any way to similar charges collected internally on like domestic products. The fact that these charges are described as internal taxes in the laws of the importing country would not in itself have the effect of giving them the status of internal taxes under the Charter."

"The Sub-Committee considered that charges imposed in connection with the international transfer of payments for imports or exports, particularly the charges imposed by countries employing multiple currency practices, where such charges are imposed not inconsistently with the Articles of Agreement  
/of the International

of the International Monetary Fund, would not be covered by Article 18. On the other hand, in the unlikely case of a multiple currency practice which takes the form of an internal tax or charge, such as an excise tax on an imported product not applied on the like domestic product, that practice would be precluded by Article 18. It may be pointed out that the possible existence of charges on the transfer of payments insofar as these are permitted by the International Monetary Fund is clearly recognized by Article 16."

"The Norwegian delegation had proposed to insert a new paragraph 5 in Article 18 to make sure that the provisions of this Article should not be applied to laws, regulations and requirements which have the purpose of standardizing products in order to improve the quality or to reduce costs of production, or have the purpose of facilitating an improved organization of internal industry provided that they have no harmful effect on the expansion of international trade. (See document E/CONF.2/C.3/1/Add.39). The Sub-Committee was of the opinion that this amendment would not be necessary because this Article as drafted would permit the use of internal mixing regulations required to enforce standards and even to protect one domestic industry against another, provided such regulations did not have the effect of protecting the domestic as compared to the imported product. In accordance with this opinion the Norwegian delegation withdrew its amendment."

"The Sub-Committee was in agreement that under the provisions of Article 18 regulations and taxes would be permitted which, while perhaps having the effect of assisting the production of a particular domestic product (say, butter) are directed as much against the domestic production of another product (say, domestic oleomargarine) as they are against imports (say, imported oleomargarine)."

"In paragraph 5 the words 'internal quantitative regulation relating to the mixture' are intended to cover only the quantitative mixture of products; for example, when an internal regulation has as its sole purpose the safeguarding of the quality of a particular domestic product, it would not come within the scope of Article 18."

"The exception permitting the continuance of existing mixing regulations (paragraph 6) has been redrafted so as to bring out more clearly that a Member would be free to alter the details of an existing regulation provided that such alterations do not result in changing the overall effect of the regulation to the detriment of imports."

/s/ The delegate for Ireland

"The delegate for Ireland inquired whether the phrase 'shall not be modified to the detriment of imports' in paragraph 6 would permit changes in the amounts or proportions of a product required to be mixed which are based on changes in crops from year to year. The Sub-Committee considered that if the regulation in effect on the base date specifically provided for such changes, by requiring that a given part of each crop be utilized, the changes would not be precluded by paragraph 6."

"Paragraph 8 (b) was redrafted in order to make it clear that nothing in Article 18 could be construed to sanction the exemption of domestic products from internal taxes imposed on like imported products or the remission of such taxes."

"It was agreed that a uniform tax applying to a considerable number of products was to be regarded as a tax of the kind referred to in the parenthesis in the interpretative note to Article 17, notwithstanding the fact that the legislation under which the tax was imposed provided for two or more rates of tax each applying to a number of products."

## II. DRAFT REPORT OF WORKING PARTY 3 (ARTICLE 18) AND WORKING PARTY 4 (ARTICLE 19)

Working Party 3 (Article 18) and Working Party 4 (Article 19), consisting of the delegates of France, Norway, the United Kingdom and the United States, after consulting with the Chairman of Sub-Committee A, considered Article 19 jointly, in consultation with the delegate of Czechoslovakia, and report as follows:

### A. REVISED TEXT OF ARTICLE 19

#### Special Provisions Relating to Cinematograph Films

[/If any Member establishes or maintains/ The provisions of Article 18 shall not prevent any Member from establishing or maintaining internal quantitative regulations relating to exposed cinematograph films /] . Any such regulations shall take the form of screen quotas which shall conform to the following conditions and 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, [no] screen time, including screen time released by administrative action from minimum time reserved for films

/of national origin

of national origin, shall formally or in effect be allocated not be allocated formally or in effect among sources of supply.

(c) Notwithstanding the provisions of sub-paragraph (b) above, Members any Member may maintain screen quotas conforming to the conditions requirements of sub-paragraph (a) which reserve a minimum proportion of screen time for films of a national specified origin other than that of the Member imposing such screen quotas; Provided that no such minimum proportion of screen time shall be increased above the level in effect on 10 April 1947.

(d) Screen quotas shall be subject to negotiation for their limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under and shall accordingly be treated as customs duties for the purposes of Article 17.

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6 February 1948

ADDENDUM TO DRAFT REPORT OF  
WORKING PARTY 3 (ARTICLE 18) AND WORKING PARTY 4 (ARTICLE 19)

B. NOTE TO BE INCLUDED IN THE SUB-COMMITTEE REPORT

The delegate for Czechoslovakia reaffirmed the views expressed by the head of his delegation in Committee III (E/CONF.2/C.3/SR.13) to the effect that cinematograph films should be explicitly excluded from the competence of the ITO on the grounds that films, being works of art, are not just simple commercial commodities or industrial products. However, if the majority of the Conference favoured the retention of Article 19 his delegation would no longer press its objections.

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SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 3 (ARTICLE 18)

Memorandum Regarding the Colombian Amendment to Article 18  
(Items 49 and 54, Revised Annotated Agenda, (E/CONF.2/C.3/6))

(Submitted by the Delegation of Colombia)

The problem which the Colombian delegation set before the Sub-Committee in relation to the effects of Article 18 on the fiscal system of Colombia, can be summarized as follows:

1. The production of spirits is a monopoly of the department (a political and administrative division). The right to maintain and administer freely this monopoly is guaranteed to the departments by the constitution, and its products represents for them the most important item of their revenues. The Central Government may not intervene in the fixing of prices. The authority to regulate this matter rests with the Assemblies (local legislature bodies).

There are fourteen departments and consequently fourteen different monopolies, each of which produces spirits for the consumption of its respective department. The prices naturally are fixed according to the economic conditions peculiar to the different regions.

On the other hand a national law has authorized the departments to establish a tax on the consumption of imported spirits. This tax constitutes a very important item of revenue for the local governments. In accordance with Article 18 of the Charter, Colombia would be obliged either to eliminate the tax on consumption or to establish a tax on the domestic product. It is obvious that his latter solution could not be applied, because the margin of profit, that is, the difference between the price of sale and the cost of production, is very different in the various departments and generally very great. Moreover as the quality of the domestic products (aguardientes and rums), which are consumed almost exclusively by the working classes, differs greatly from that of the imported products (whiskey, cognac, etc.), the imposition of the same tax would be inappropriate.

We think Article 18 could be amended to include some provisions permitting us to maintain both the monopoly and the tax consumption of imported products as they stand, and in view of the grave political and administrative consequences which would follow the adoption of any other method, the Colombian Government considers that it could not approve the Charter if this question was not satisfactorily arranged.

/It has been

It has been suggested that paragraph 3 of Article 99 offers a solution for this problem but in our case, this is not so. As we have already stated, the tax on the consumption of imported products has been authorized by a national law, and this law would be automatically in opposition to the new law by which we would approve the Charter.

2. The municipal councils have had legal authority to establish taxes on the introduction of merchandises to their own territories but some years ago a national law prohibited any tax on the circulation of national products. Therefore, today there exists a tax that is imposed only on imported products entering the territory of the municipalities. This tax has really a pure fiscal purpose, but, as it covers both merchandises we do not produce and merchandises of which there is some national production, it will fall under the provisions of Article 18.

We would be willing to eliminate this tax, which is not in accordance with the radical transformation we have accomplished in our fiscal system during the last twenty years, but we could not make it suddenly. The tax represents a relatively important revenue for the municipalities and the Central Government would be obliged to provide an alternative source of revenue.

Article 18 in its present draft would have the effect of eliminating this tax automatically for the reasons set out above.

3. The National Government imposes certain taxes on the consumption of imported cigarettes and imported tires, and these are collected together with the customs duties. These taxes are not in accordance with the principles of "National treatment" because they are not levied on the like articles of domestic production. On the other hand, we cannot consolidate these taxes with the customs duties because the tariffs for both tires and cigarettes are bound by our bilateral agreement with the United States. We are faced with practically the same problem as that contemplated in the amendment presented by Venezuela, and it has been suggested that the Charter should authorize the maintenance of this kind of taxes during a reasonable period to permit countries concerned to modify existing bilateral agreements.

26 January 1948

## SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

## WORKING PARTY 3 (ARTICLE 18)

(Reference: Revised Annotated Agenda, E/CONF.2/C.3/6)

The following items were referred to Working Party 3 of Sub-Committee A:

1. Items 49, 54 and 65, insofar as related to paragraph 1 (Colombia, Ireland, Uruguay, Argentina, respectively) - to find a solution to the particular problems involved under Article 99 or Article 18 (Memorandum prepared by Colombian delegate, Notes Eighteenth Meeting, 10 January, W.30, and Nineteenth Meeting, 12 January, W.31).
2. Reference to Article II (1) (b) General Agreement which makes a distinction between ordinary customs duties and other duties or charges on importation - to meet Syria's desire to retain existing internal taxes applied by municipal authorities in addition to custom duties on unbound items (Item 50 (Syria) (Lebanon) W.30).
3. Definition of internal taxes for purposes of Article 18 (Reservation and suggestion by Brazilian delegate, W.30).
4. Consultation with countries expressing concern with the problem raised by Venezuela, other than parties to the General Agreement, (i.e., release to convert to a customs duty an internal tax on an item bound under an agreement other than the General Agreement) (Item 42, Notes Twelfth Meeting, 31 December, W.22), to ascertain (a) number of such cases; (b) specific products affected; (c) by what treaties bound (W.30).
5. Re-formulation of second sentence of paragraph 1, while retaining principles thereof (Items 50 and 51, (Syria) (Lebanon) and (China), Notes Nineteenth Meeting, 12 January, W.31).
6. Item 53 (Sweden) - drafting only (Notes Twentieth Meeting, 13 January, W.32).
7. Item 64 (United States) - agreed in principle, referred for re-drafting (Notes Twenty-First Meeting, 14 January, W.33).
8. Item 48 (United Kingdom) - drafting only (W.33).
9. Interpretative Note re multiple currency practices - referred for re-wording (W.33).

10. Item 58 (Mexico) and proposed new paragraph 8, Article 32 (Notes Twenty-Second Meeting, 15 January, W.35 and Notes Fifth Meeting, Sub-Committee C, E/CONF.2/C.3/C/W.5).
11. Interpretation of paragraphs 3 and 4, to be included in Sub-Committee's Report, along lines of Report of Geneva Sub-Committee on Articles 14, 15 and 24 (Notes Twenty-Third Meeting, 16 January, W.35).
12. Clarification of language of paragraph 2, particularly the words "formally or in effect" in sub-paragraph 3 (a) and Mexican proposal to add a sentence to sub-paragraph 3 (a) in the light of the final text of Article 20 (W.35).
13. Item 61 (Ceylon) - agreed in principle subject to appropriate re-wording (W.35).
14. Suggestion (Cuba) that sub-paragraph 4 (b) might be amended to make it clear that internal quantitative regulations in particular cases are less restrictive than quantitative restrictions (W.35).
15. Particular problem with which the delegation of Ireland was concerned in submitting Item 62 - whether covered by provisions of sub-paragraph 4 (b) (W.35).
16. Deletion of the dates in sub-paragraph 4 (b) and substitution of language similar to that of Article 14 (Mexico) (Notes Twenty-Fourth Meeting, 19 January, W.38).

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THIRD COMMITTEE: COMMERCIAL POLICY

WORKING PARTY 3 OF SUB-COMMITTEE A (ARTICLE 18)

NORWAY: SUGGESTED NEW DRAFT OF ARTICLE 18

ALTERNATIVE A

1. No Member shall apply internal taxes or other charges of any kind for the purpose or with the effect of affording protection for domestic production in excess of tariffs or other charges on imports which might be subject to negotiations in accordance with Article 17; existing protective internal taxes or other charges shall be subject to negotiations for their reduction or elimination in the manner provided for in respect to tariffs and preferences under Article 17.
  2. No Member shall apply laws, regulations or requirements affecting the internal sale, offering for sale, purchases, transportation, distribution or use of imported or domestic products in such a way as to afford protection for domestic production. (This paragraph shall not prevent the application of differential transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.)
  3. (In applying the principles of paragraph 2 of this Article to internal quantitative regulations relating to the mixture, processing or use of products in specified amounts or proportions, the Members shall observe the following provisions:
    - (a) no regulations shall be made which (formally or in effect) require that any specified amount or proportion of the product in respect of which such regulations are applied must be supplied from domestic sources whenever such requirement is affording protection for domestic production;
    - (b) no Member shall, formally or in effect, restrict the mixing, processing or use of a product of which there is no substantial domestic production with a view to affording protection to the domestic production of a directly competitive (or substitutable) product.)
  4. The provisions of paragraphs 2 and 3 of this Article shall not apply to any system of internal protection for domestic production in force in any Member country on 1 July 1939 or (10 April) 21 November 1947 at the option of that Member: Provided that any such (measure) system which would be in conflict with the provisions of paragraphs 2 or 3 of this Article shall not be modified to the detriment of imports and shall be subject to negotiations for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17.
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- /5. The provisions

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

6. The provisions of this Article shall not prevent the payment to domestic producers only of subsidies provided for under Article 25, including payments to domestic producers derived from the proceeds of internal taxes or charges and subsidies effected through governmental purchases of domestic products.

ALTERNATIVE B

1. No Member shall apply internal taxes or other charges of any kind for the purpose or with the effect of affording protection for domestic production in excess of tariffs or other charges on imports which might be subject to negotiations in accordance with Article 17.

2. No Member shall apply laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of imported or domestic products in such a way as to afford protection for domestic production.

3. The provisions of this Article shall not apply to:

(a) any protective internal taxes or other charges or any other system of internal protection for domestic production in force in any Member country on 1 July 1939 or (10 April) 21 November 1947 at the option of that Member: Provided that any such (measure) system which would be in conflict with the provisions of paragraphs 2 or 3 of this Article shall not be modified to the detriment of imports and shall be subject to negotiations for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17.

(b) the procurement by governmental agencies of products purchased for governmental purposes and not for resale or use in the production of goods for sale.

4. The provisions of this Article shall not prevent the payment to domestic producers only of subsidies provided for under Article 25, including payments to domestic producers derived from the proceeds of internal taxes or charges and subsidies effected through governmental purchases of domestic products.

COMMENTS:

As was pointed out in the Sub-Committee, Article 18 should be redrafted in order to clarify the meaning and the bearing of its provisions. The Norwegian delegation suggests the two alternatives set forth above. With exception of some corrections mentioned below, none of the two alternative aims at making substantial alterations in the Geneva text of Article 18.

They only state the principles of this Article more directly and, it is

/suggested

suggested, more clearly. Alternative A follows the Geneva text more closely, while Alternative B gives a shorter formulation of the same principles.

Alternative A

Paragraph 1

The purpose of this paragraph is to eliminate protection to domestic production by use of differential internal taxation. However, the Geneva text has no direct reference to this purpose. It expresses the principle indirectly and in a way which involves serious difficulties with respect to the interpretation, especially in regard to the meaning of such words as "like products" and "substitutable products". These expressions open the door for interpretations which would impose limitations on the Members' internal taxation policy far beyond the purpose of the Article. The Norwegian delegation will as an example draw attention to the fact that in many countries it is usual, without any protective purpose, to levy heavier internal taxes on goods of finer quality than on goods of lower quality. Paragraph 1 of Article 18 in its present formulation would bar a Member from pursuing such a policy when the goods of finer quality are imported while the goods of ordinary quality are produced in the country. Goods of ordinary quality might undeniably be classified as "substitutable products".

The suggested new draft aims at avoiding such difficulties by stating the principles of the Article as clearly as possible, thereby establishing a better foundation for its interpretation. There is no question of any substantial alteration of the basic concept of the paragraph.

The last sentence of paragraph 1 is transferred from the Geneva Draft with some formal alterations. However, it ought to be considered whether the text should not be formulated in conformity with the text of paragraph 4, sub-paragraph (b) in the Geneva Draft, as is suggested in Alternative B.

Paragraph 2

The first sentence is in conformity with the alterations made in paragraph 1.

The redrafting of the first sentence makes the second sentence unnecessary. It would be quite sufficient to give an explanation in the report. However, the sentence does not do any harm and might be retained in the text if anyone so prefers.

Paragraph 3

When paragraphs 1 and 2 are redrafted as suggested above, there will be no need for the provisions of paragraph 3 of the Geneva Draft. The rules of paragraph 3 may be deduced from the basic principles of paragraphs 1 and 2 as far as this principle goes. It should therefore also here be sufficient to explain this in the report. If it should be considered preferable to retain the provisions in the text of the Article, it will be necessary to

/make

make some limitations as suggested in the above draft.

In sub-paragraph (a) the words "formally or in effect" should be deleted and the following words added to this sentence: "whenever such requirement is affording protection to domestic production". This to make the provisions of the sub-paragraph consistent with the general purposes of the Article. The point is not whether a certain quantitative regulation formally or in effect require that any specified amount or proportion of the product must be supplied from domestic sources. The point is whether such requirement purposely or in effect is affording protection for the domestic production. If this is not the case, the Article should not apply to a regulation even if it prescribes that a certain per cent of raw materials is supplied from domestic sources.

In sub-paragraph (b) the words "or substitutable" should be deleted. As mentioned above, these words might lead to obligations far outside the scope of this Article.

#### Paragraph 4

It is suggested that all the special provisions relating to cinematograph films should be incorporated in Article 19. Consequently, the provisions in sub-paragraph (a) of paragraph 4 in the Geneva Draft should be transferred to Article 19. Paragraph 4 of the suggested new draft of Article 18 accordingly corresponds to sub-paragraph (b) of the Geneva Draft.

Paragraph 4 (b) in the Geneva text only refers to paragraph 3, not to paragraph 2 of Article 18. There is no reason why existing regulations which are of the character as described in paragraph 2 but not covered by paragraph 3, should not be exempted in the same way as existing internal taxation according to paragraph 1, and quantitative regulations according to paragraph 4. As mentioned above, the exemptions should be formulated in the same way both in regard to internal taxation and in regard to such regulations as are described in paragraphs 2 and 3. This is done in Alternative B. The Geneva text is followed more closely in Alternative A, but in paragraph 4 is referred both to paragraph 2 and paragraph 3. The date 10 April 1947 is amended to 21 November 1947 according to the proposal by Argentina. See document E/CONF.2/C.3/5, Item 65 (b) and document E/CONF.2/C.3/A/W.38, page 3. The word "system" is introduced instead of "measure" according to a Swedish proposal. See document E/CONF.2/C.3/6, Item 67 and document E/CONF.2/C.3/A/W.38, page 4.

#### Paragraphs 5 and 6

Paragraphs 5 and 6 correspond to paragraph 5 in the Geneva text. As the two parts of this paragraph deal with quite different things, it is suggested to separate them in two paragraphs.

/Alternative B

Alternative B

The suggested Alternative B is shorter and gives, according to the Norwegian view, a better formulation of the same principles as stated in Alternative A.

Havana, 26 January 1948.

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RESTRICTED  
26 January 1948

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 3 (ARTICLE 18)

REDRAFT OF PARAGRAPH 1

(Suggested by the United States delegate)

1. The products of any Member country imported into any other Member country shall be exempt from internal taxes and other internal charges of any kind in excess of those applied directly or indirectly to like products of national origin. Moreover, in cases in which there is no substantial domestic production of like products of national origin, no Member shall apply new or increased internal taxes on the products of other Member countries for the purpose of affording protection to the production of directly competitive or substitutable products which are not similarly taxed; existing internal taxes of this kind shall be subject to negotiation for their reduction or elimination in the manner provided for in respect of tariffs and preferences under Article 17.7 Moreover, no Member shall impose a new or increased internal tax on any product of another Member country, of which the importing Member has no substantial domestic production, for the purpose of affording protection to the domestic production of a directly competitive or substitutable product which is not similarly taxed. Existing internal taxes of the kind described in the preceding sentence shall be treated as tariffs for the purposes of Article 17. With respect to any existing internal tax which is inconsistent with the provisions of this paragraph but which is specifically authorized under an inter-governmental agreement, in force on 10 April 1947, in which the import tariff on the taxed product is bound against increase, the Member imposing the tax shall be free to postpone the application to such tax of the provisions of this paragraph until such time as the Member can obtain from the other party to the agreement permission to increase such tariff to the extent necessary to compensate for the elimination of the protective element of the tax.

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27 January 1948

THIRD COMMITTEE: COMMERCIAL POLICY

WORKING PARTY 3 OF SUB-COMMITTEE A (ARTICLE 18)

PROVISIONAL REDRAFT

1. The Members recognize that internal taxes or other charges of any kind shall not be applied for the purpose or with the effect of affording protection for domestic production.

2. The products of any Member country imported into any other Member country shall [be 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.

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SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 3 (ARTICLE 18)

(Reference: Revised Annotated Agenda, E/CONF.2/C.3/6)

The following items were referred to Working Party 3 of Sub-Committee A:

Paragraph 1

1. Items 49, 54, and 65, insofar as related to paragraph 1 (Colombia, Ireland, Uruguay, Argentina, respectively) - to find a solution to the particular problems involved under Article 99 or Article 18 (Memorandum prepared by Colombian delegate, Notes Eighteenth Meeting, 10 January, W.30, page 1, Nineteenth Meeting, 12 January, W.31, pages 1 and 2 and Twentieth Meeting, 13 January, W.32, page 1).
2. Reference to Article II (1) (b) General Agreement which makes a distinction between ordinary customs duties and other duties or charges on importation - to meet Syria's desire to retain existing internal taxes applied by municipal authorities in addition to custom duties on unbound items (Item 50 (Syria) (Lebanon) W.30, page 2).
3. Definition of internal taxes for purposes of Article 18 (Reservation and suggestion by Brazilian delegate, W.30, page 2).
4. Consultation with countries expressing concern with the problem raised by Venezuela, other than parties to the General Agreement, (i.e., release to convert to a customs duty an internal tax on an item bound under an agreement other than the General Agreement) (Item 42, Notes Twelfth Meeting, 31 December, W.22), to ascertain (a) number of such cases; (b) specific products affected; (c) by what treaties bound, (W.30, page 3).
5. Re-formulation of second sentence of paragraph 1, while retaining principles thereof (Items 50 and 51, (Syria and Lebanon), (China), (France), Notes Nineteenth Meeting, 12 January, (W.31, pages 1 and 2)).
6. Item 53 (Sweden) - drafting only (Notes Twentieth Meeting, 13 January, W.32, page 2).
7. Item 74 (United States) - agreed in principle, referred for re-drafting (Notes Twenty-First Meeting, 14 January, W.33, page 1).
8. Item 48 (United Kingdom) - drafting only (W.33, page 3).
9. Interpretative Note re multiple currency practices - referred for

/Paragraph 2

Paragraph 2

10. Item 58 (Mexico) and proposed new paragraph 8, Article 32 (Notes Twenty-Second Meeting, 15 January, W.34, page 4, and Notes Fifth Meeting, Sub-Committee C, E/CONF.2/C.3/C/W.5).

Paragraphs 3 and 4

11. Clarification of language of paragraph 3, particularly the words "formally or in effect" in sub-paragraph 3 (a) (Argentina, Brazil, Cuba, Mexico) (Notes Twenty-Third Meeting, 16 January, W.35, page 3 and Notes Twenty-Fourth Meeting, 22 January, W.38, page 2).

12. Item 61 (Ceylon) - agreed in principle subject to appropriate re-wording (W.35, page 3).

13. Interpretation of paragraphs 3 and 4, to be included in Sub-Committee's Report, along lines of Report of Geneva Sub-Committee on Articles 14, 15 and 24 (W.35, page 2).

14. Proposal to add a sentence to sub-paragraph 3 (a) in the light of the final text of Article 20 (Mexico) (W.35, page 3).

15. Inclusion in Sub-Committee's Report of interpretation of sub-paragraphs 3 (a) and (b) with respect to proposed Cuban mixing regulation (alcohol and gasoline) or amendment re dates of sub-paragraph 4 (b) (Cuba) (W.38, page 2).

16. Suggestion (Cuba) that sub-paragraph 4 (b) might be amended to make it clear that internal quantitative regulations in particular cases are less restrictive than quantitative restrictions (W.35, page 3).

17. Particular problem with which the delegation of Ireland was concerned in submitting Item 62 - whether covered by provisions of sub-paragraph 4 (b) (W.35, page 4).

18. Deletion of the dates in sub-paragraph 4 (b) and substitution of language similar to that of Article 14. (Mexico) - Working Party to endeavour to find a solution (W.38, page 1).

19. Item 65 (b) (Argentina) - Working Party to examine feasibility of proposed substitution of 21 November 1947 for 10 April 1947 in sub-paragraph 4 (b) (W.38, page 3).

20. Item 67 (Sweden) - accepted in principle, referred for drafting (W.38, page 4).

Paragraph 5

21. Reference to Article 16 in Article 18 to the effect that the provisions of paragraph 5 of Article 18 could in no way be interpreted as limiting the m-f-n obligation under Article 16 (Mexico) - Working Party to determine whether necessary (Notes of Twenty-Fifth Meeting, 20 January, W.39, page 1).

22. Definition

22. Definition of "products purchased for governmental purposes" - paragraph 5 (W.39, page 2).

23. Wording to be suggested by Argentinian and Chinese delegates, other than that proposed in their original amendments (Items 72 and 73), which would meet the points they had in mind without excluding from the provisions of Article 18 purchases made by governments in a state trading capacity (W.39, page 2).

24. Examination of latter part of paragraph 5 in relation to Article 25 (Australia) (Mexican reservation) (W.39, pages 1 and 2).

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27 January 1948

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 3 (ARTICLE 18)

SUGGESTED INTERPRETATIVE NOTE TO PARAGRAPH 3 OF ARTICLE 99

"The term 'reasonable measures' would not require, for example, the repeal of national legislation authorizing the application by local governments of internal taxes which, although technically departing from the letter of the Charter, are nevertheless consistent with its spirit, in cases where such repeal would work a serious hardship on the local governments concerned."

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UNCLASSIFIED  
28 January 1968

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PAPER 3 (ARTICLE 18)

Suggested Interpretative Note to  
Paragraph 1 of Article 18

The application of paragraph 1 to internal taxes imposed by local governments within the territory of a Member is subject to the provisions of paragraph 3 of Article 99. The term "reasonable measures" in the last-mentioned paragraph would not require, for example, the repeal of national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article 18, are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments concerned. With regard to taxation by local governments which is inconsistent with both the letter and spirit of Article 18, the term "reasonable measures" would permit a Member to eliminate the inconsistent taxation gradually over a transitional period if abrupt action would create serious administrative and financial difficulties.

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SUB-SECTION A (ARTICLES 15, 17, 18, 19) OF OCTOBER 1947

WORKING PAPER 3 (ARTICLE 18)

Proposed Draft of Paragraph 2

1. The Members recognize that internal taxes and other internal charges of any kind, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of imported or domestic products, should not be applied so as to afford protection to domestic production.
2. The products of any Member country imported into any other Member country shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind, in excess of those applied, directly or indirectly, to like domestic products. Moreover, no Member shall otherwise apply internal taxes or internal charges in a manner contrary to the principles set forth in paragraph 1.

Interpretative Note to Paragraph 2 of Article 18

It is understood that a Member would be able to claim that a tax conforming to the requirements of the first sentence of paragraph 2 was being applied inconsistently with the second sentence only in cases involving competition between the taxed product on the one hand and, on the other hand, a directly competitive or substitutable product which was not similarly taxed.

29 January 1948

## SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

## WORKING PARTY 3 (ARTICLE 18)

Suggested Redraft of Present Paragraph 3

4. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Member shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

Interpretative Note to Paragraph 4 of Article 15

Regulations conforming to the first sentence of paragraph 4 shall not be considered to be contrary to the second sentence in any case in which all of the products subject to the regulation are produced domestically in substantial quantities. It is understood that a Member applying a regulation may not claim that the regulation is consistent with the second sentence on the ground that the proportion or amount allocated to each of the products which are the subject of the regulation constitutes an equitable relationship between imported and domestic products.

29 January 1948

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 3 (ARTICLE 18)

PROPOSED NEW FINAL PARAGRAPH OF ARTICLE 18: ALTERNATIVE DRAFT  
SUGGESTED BY THE UNITED KINGDOM

(a) Any internal tax or other internal charge applied to an imported product and to the like domestic product which, in the case of the imported product, is collected at the time of importation shall nevertheless be regarded as an internal tax or other internal charge [and shall be] subject to all the requirements of this Article.

(b) Any law, regulation or requirement of the kind referred to in paragraph 2\* applied to an imported product and to the like domestic product which, in the case of the imported product, is [applied] [enforced] at the time of importation shall nevertheless be regarded as a law, regulation or requirement of the kind referred to in paragraph 2\* [and shall be] subject to all the requirements of this Article.

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\* Paragraph 2 in Geneva Text; paragraph 5 in proposed new text.

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF CHAPTER III

WORKING PARTY 3

PROVISIONAL SUMMARY: ARTICLE 16

National Treatment on Internal Taxation and Regulation

1. The Members recognize that internal taxes and other internal charges of any kind, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of imported or domestic products, should not be applied so as to afford protection to domestic production.

17

2. The products of any Member country imported into any other Member country shall [be exempt from] not be subject, directly or indirectly, to internal taxes [and] or other internal charges of any kind, in excess of those applied, directly or indirectly, to like domestic products [of national origin]. Moreover, in cases in which there is no substantial domestic production of like products of national origin, no Member shall apply new or increased internal taxes on the products of other Member countries for the purpose of affording protection to the production of directly competitive or substitutable products.] Moreover, no Member shall otherwise apply internal taxes or internal charges in a manner contrary to the principles set forth in paragraph 1.

2

3. The products of any Member country imported into any other Member country shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

3

4. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Member shall otherwise apply

internal

internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

5. The provisions of paragraph 3 4 of this Article shall not apply to 1
- (a) any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;
  - (b) any [other measures of] internal quantitative [control] regulations in force in any Member country on 1 July 1939 [or] 10 April 1947 or on the day on which the Final Act of the United Nations Conference on Trade and Employment is signed, at the option of that Member;
- PROVIDED that any such [measure] regulation which would be in conflict with the provisions of paragraph 3 4 of this Article shall not be modified to the detriment of imports and shall be [subject to] negotiations for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17 treated as a tariff for the purposes of Article 17.
6. The provisions of this Article (a) shall not apply to the procurement by governmental agencies of products purchased for governmental purposes and not [For resale or use] with a view to commercial resale or with a view to use in the production of goods for commercial sale, (b) nor shall they prevent the payment to domestic producers only of subsidies provided for under Article 25, including payments to domestic producers derived from the proceeds of internal taxes or charges and subsidies effected through governmental purchases of domestic products.

/INTERPRETATIVE

INTERPRETATIVE NOTES

To Paragraph 1

The application of paragraph 1 to internal taxes imposed by local governments within the territory of a Member is subject to the provisions of paragraph 3 of Article 99. The term "reasonable measures" in the last-mentioned paragraph would not require, for example, the repeal of national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article 18, are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments concerned. With regard to taxation by local governments which is inconsistent with both the letter and spirit of Article 18, the term "reasonable measures" would permit a Member to eliminate the inconsistent taxation gradually over a transition period if abrupt action would create serious administrative and financial difficulties.

To Paragraph 2

It is understood that a Member would be able to claim that a tax conforming to the requirements of the first sentence of paragraph 2 was being applied inconsistently with the second sentence only in cases involving competition between the taxed product on the one hand, and on the other hand, a directly competitive or substitutable product which was not similarly taxed.

To Paragraph 4

Regulations conforming to the first sentence of paragraph 4 shall not be considered to be contrary to the second sentence in any case in which all of the products subject to the regulation are produced domestically in substantial quantities. It is understood that a Member applying a regulation may not claim that the regulation is consistent with the second sentence on the ground that the proportion or amount allocated to each of the products which are the subject of the regulation constitutes an equitable relationship between imported and domestic products.

10 January 1948

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 3 (ARTICLE 18)

PROPOSED NEW FINAL PARAGRAPH OF ARTICLE 18: DRAFT SUGGESTED  
BY THE UNITED KINGDOM

- (a) Notwithstanding that an internal tax or other internal charge is collected in respect of an imported product at the time of importation, it shall be regarded as an internal tax or other internal charge ~~and shall be~~ subject to all the requirements of this Article.
- (b) Notwithstanding that a law, regulation or requirement of the kind referred to in paragraph 2<sup>a</sup> is ~~applied~~ ~~enforced~~ in respect of an imported product at the time of importation, it shall be regarded as a law, regulation or requirement of the kind referred to in paragraph 2<sup>a</sup> ~~and shall be~~ subject to all the requirements of this Article.

RESTRICTED

30 January 1948

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 3

ARTICLE 18: PROPOSED REVISION OF PARAGRAPH 5 OF GENEVA DRAFT

5. The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for immediate or ultimate consumption in governmental use and not otherwise for resale or for use in the production of goods for sale.

PROPOSED NEW PARAGRAPH 2 OF ARTICLE 30

2. The provisions of paragraph 1 of this Article shall not apply to imports of products for immediate or ultimate consumption in governmental use and not otherwise for resale or for use in the production of goods for sale. With respect to such imports, and with respect to the laws, regulations and requirements referred to in paragraph 5 of Article 18, the Members shall accord to the trade of the other Members fair and equitable treatment.

RESTRICTED

31 January 1948

THIRD COMMITTEE - COMMERCIAL POLICY

WORKING PARTY 4 OF SUB-COMMITTEE A (ARTICLE 19)

NORWAY: SUGGESTED NEW DRAFT OF ARTICLE 19

1. The provisions of Article 18 shall with the modifications set forth in the following paragraphs of this Article apply to cinematograph films and to the commercial exhibition of such films.
2. The provisions of Article 18 shall not be so construed as to prevent custom duties on imported films to be levied in form of tax on the commercial exhibition of films. Such taxes shall be subject to the provisions of Articles 16 and 17.
3. The provisions of paragraphs 2 and 3 of Article 18 shall not preclude any internal quantitative regulations relating to cinematograph films and meeting the requirements of paragraph 4 of this Article.
4. If any Member establishes ..... (continues as Article 19 now drafted).

31 January 1948

## SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

## WORKING PARTY 3

## PROVISIONAL REDRAFT: ARTICLE 18

## National Treatment on Internal Taxation and Regulation

1. The Members recognize that internal taxes and other internal charges of any kind, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution, mixture, processing or use of imported or domestic products, should not be applied so as to afford protection to domestic production.
- 1/ 2. The products of any Member country imported into any other Member country shall ~~be exempt from~~ not be subject, directly or indirectly, to internal taxes ~~and~~ or other internal charges of any kind, in excess of those applied, directly or indirectly, to like domestic products ~~of~~ national origin.  
Moreover, in cases in which there is no substantial domestic production of like products of national origin, no Member shall apply new or increased internal taxes on the products of other Member countries for the purpose of affording protection to the production of directly competitive or substitutable products. Moreover, no Member shall otherwise apply internal taxes or internal charges in a manner contrary to the principles set forth in paragraph 1.
3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2 but which is specifically authorized under a trade agreement, in force on 10 April 1947, in which the import tariff on the taxed product is bound against increase, the Member imposing the tax shall be free to postpone the application to such tax of the provisions of paragraph 2 until such time as the Member can obtain from the other party to the agreement permission to increase such tariff to the extent necessary to compensate for the elimination of the protective element of the tax.
- 2/ 4. The products of any Member country imported into any other Member country shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.
- 3/ 5. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any

specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Member shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

- 4 6. (a) The provisions of paragraph 3 5 shall not apply to [ :  
(a) any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;  
(b) any [Other measures of] internal quantitative [control] regulation in force in any Member country on 1 July 1939 [or], 10 April 1947 or on the day on which the Final Act of the United Nations Conference on Trade and Employment is signed, at the option of that Member; PROVIDED that any such [measure] regulation which would be in conflict with the provisions of paragraph 3 5 shall not be modified to the detriment of imports and shall be [subject to negotiations for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17] treated as a tariff for the purposes of Article 17.  
(b) With the exception of those provisions of regulations pursuant to sub-paragraph (a) which reserve specified amounts or proportions for domestic products, no internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among sources of supply.
- 5 7. (a) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not [for] with a view to commercial resale or with a view to use in the production of goods for commercial sale [ ];  
(b) [nor] The provisions of this Article shall [they] not prevent the payment to domestic producers only of subsidies provided for under Article 25, including payments to domestic producers derived from the proceeds of internal taxes or charges and subsidies effected through governmental purchases of domestic products.

INTERPRETATIVE NOTES

To Paragraph 1

The application of paragraph 1 to internal taxes imposed by local governments within the territory of a Member is subject to the provisions of paragraph 3 of Article 99. The term "reasonable measures" in the last-mentioned paragraph would not require, for example, the repeal of /national

national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article 18, are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments concerned. With regard to taxation by local governments which is inconsistent with both the letter and spirit of Article 18, the term "reasonable measures" would permit a Member to eliminate the inconsistent taxation gradually over a transition period if abrupt action would create serious administrative and financial difficulties.

To Paragraph 2

A tax conforming to the requirements of the first sentence of paragraph 2 would be considered to be inconsistent with the second sentence only in cases where competition was involved between, on the one hand, the taxed product, and on the other hand, a directly competitive or substitutable product which was not similarly taxed.

To Paragraph 5

Regulations conforming to the first sentence of paragraph 5 shall not be considered to be contrary to the second sentence in any case in which all of the products subject to the regulation are produced domestically in substantial quantities. A regulation cannot be justified as being consistent with the second sentence on the ground that the proportion or amount allocated to each of the products which are the subject of the regulation constitutes an equitable relationship between imported and domestic products.

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2 February 1948

## SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

## WORKING PARTY 3

## PROVISIONAL REDRAFT: ARTICLE 18

## National Treatment on Internal Taxation and Regulation

1. The Members recognize that internal taxes and other internal charges of any kind, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution, mixture, processing or use of imported or domestic products, should not be applied so as to afford protection to domestic production.
- 17 2. The products of any Member country imported into any other Member country shall be exempt from not be subject, directly or indirectly, to internal taxes and or other internal charges of any kind, in excess of those applied, directly or indirectly, to like domestic products of national origin. Moreover, in cases in which there is no substantial domestic production of like products of national origin, no Member shall apply new or increased internal taxes on the products of other Member countries for the purpose of affording protection to the production of directly competitive or substitutable products. Moreover, no Member shall otherwise apply internal taxes or internal charges in a manner contrary to the principles set forth in paragraph 1.
3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2 but which is specifically authorized under a trade agreement, in force on 10 April 1947, in which the import tariff on the taxed product is bound against increase, the Member imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as the Member can obtain from the other party to the agreement permission to increase such tariff to the extent necessary to compensate for the elimination of the protective element of the tax.
- 2/ 4. The products of any Member country imported into any other Member country shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.
- 3/ 5. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified  
/amount or

amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Member shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

- 4 6. The provisions of paragraph 3 5 shall not apply to 1:
- (a) any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;
  - (b) any 1 other measures of 1 internal quantitative 1 control 1 regulation in force in any Member country on 1 July 1939 1 or 1, 10 April 1947 1 or on the day on which the Final Act of the United Nations Conference on Trade and Employment is signed, at the option of that Member; 1 PROVIDE that any such 1 measure 1 regulation which would be in conflict with the provisions of paragraph 3 5 shall not be modified to the detriment of imports and shall be subject to negotiation 1s for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17 1 and accordingly shall be treated as a tariff for the purposes of Article 17.

7. No internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.

- 5 8. (a) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and, not, 1 for 1 with a view to commercial resale, or with a view to use in the production of goods for commercial sale 1;
- (b) 1 not 1 The provisions of this Article shall 1 they 1 not prevent the payment to domestic producers only of subsidies provided for under Article 25, including payments to domestic producers derived from the proceeds of internal taxes or charges and subsidies effected through governmental purchases of domestic products.

#### INTERPRETATIVE NOTES

##### To Paragraph 1

The application of paragraph 1 to internal taxes imposed by local governments within the territory of a Member is subject to the provisions of paragraph 3 of Article 99. The term "reasonable measures" in the last-mentioned paragraph would not require, for example, the repeal of national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article 18, are 1 not in fact

not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments concerned. With regard to taxation by local governments which is inconsistent with both the letter and spirit of Article 18, the term "reasonable measures" would permit a Member to eliminate the inconsistent taxation gradually over a transition period if abrupt action would create serious administrative and financial difficulties.

To Paragraph 2

A tax conforming to the requirements of the first sentence of paragraph 2 would be considered to be inconsistent with the second sentence only in cases where competition was involved between, on the one hand, the taxed product, and on the other hand, a directly competitive or substitutable product which was not similarly taxed.

To Paragraph 5

Regulations conforming to the first sentence of paragraph 5 shall not be considered to be contrary to the second sentence in any case in which all of the products subject to the regulation are produced domestically in substantial quantities. A regulation cannot be justified as being consistent with the second sentence on the ground that the proportion or amount allocated to each of the products which are the subject of the regulation constitutes an equitable relationship between imported and domestic products.

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2 February 1948

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 3

ALTERNATIVE DRAFTS OF INTERPRETATIVE NOTE TO ARTICLE 17

1. While Article 17 does not specifically provide for negotiations with respect to internal taxes, it is understood that, in the case of an internal tax (other than a general tax uniformly applicable to a considerable number of products) which is imposed by a Member on a product not produced domestically in significant quantities and which is so high as to reduce substantially the consumption of the product, another Member would not be expected to consider as valid or effective a tariff concession on the product concerned in the absence of a concession with respect to the tax.
2. It is understood that an internal tax (other than a general tax uniformly applicable to a considerable number of products) would be treated as a tariff under Article 17 in any case in which a concession with respect to the internal tax on a product is necessary to make a tariff concession on that product valid and effective.

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RESTRICTED

2 February 1948

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 3 (ARTICLE 18)

DRAFT EXPLANATORY NOTE TO BE INCLUDED IN THE SUB-COMMITTEE'S REPORT

The delegations of Chile, Lebanon and Syria inquired whether certain charges imposed by their countries on imported products would be considered as internal taxes under Article 18. The Sub-Committee considered that the charges referred to are import duties and not internal taxes because (a) they are collected at the time of, and as a condition to, importation, and (b) they apply exclusively to imported products without being related in any way to similar charges collected internally on like domestic products. The fact that these charges are imposed under the internal revenue laws of the importing country would not in itself have the effect of giving them the status of internal taxes under the Charter.

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RESTRICTED

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III  
WORKING PARTY 3 (ARTICLE 18)

Interpretative Note to Article 18  
Suggested by the United Kingdom

If any internal tax or other internal charge, or any law, regulation or requirement of the kind referred to in paragraph 4, applying to an imported product and to the like domestic product is collected or enforced in the case of the imported product at the time or point of importation, it is nevertheless to be regarded as an internal tax or other internal charge, or a law, regulation or requirement of the kind referred to in paragraph 4, and is accordingly subject to the provisions of this Article.

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3 February 1948

## SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

## WORKING PARTY 3

## PROVISIONAL REDRAFT: ARTICLE 18

## National Treatment on Internal Taxation and Regulation

1. The Members recognize that internal taxes and other internal charges of any kind, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution, mixture, processing or use of imported or domestic products, should not be applied so as to afford protection to domestic production.
2. The products of any Member country imported into any other Member country shall ~~be exempt from~~ not be subject, directly or indirectly, to internal taxes ~~and~~ or other internal charges of any kind, in excess of those applied, directly or indirectly, to like domestic products ~~of national origin.~~  
Moreover, in cases in which there is no substantial domestic production of like products of national origin, no Member shall apply new or increased internal taxes on the products of other Member countries for the purpose of affording protection to the production of directly competitive or substitutable products. Moreover, no Member shall otherwise apply internal taxes or internal charges in a manner contrary to the principles set forth in paragraph 1.
3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2 but which is specifically authorized under a trade agreement, in force on 10 April 1947, in which the import tariff on the taxed product is bound against increase, the Member imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as the Member can obtain from the other party to the agreement permission to increase such tariff to the extent necessary to compensate for the elimination of the protective element of the tax.
4. The products of any Member country imported into any other Member country shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.
5. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified  
/amount or

amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Member shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

- 4 6. The provisions of paragraph 3 5 shall not apply to 1:
- (a) any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;
  - (b) any [other measures of] internal quantitative [control] regulation in force in any Member country on 1 July 1939 [or] 10 April 1947 or on the day on which the Final Act of the United Nations Conference on Trade and Employment is signed, at the option of that Member; PROVIDED that any such [measure] regulation which would be in conflict with the provisions of paragraph 3 5 shall not be modified to the detriment of imports and shall be subject to negotiations for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17 and accordingly shall be treated as a tariff for the purposes of Article 17.
7. No internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.
- 5 8. (a) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not [for] with a view to commercial resale or with a view to use in the production of goods for commercial sale 1;
- (b) [nor] The provisions of this Article shall [they] not prevent the payment to domestic producers only of subsidies provided for under Article 25, including payments to domestic producers derived from the proceeds of internal taxes or charges and subsidies effected through governmental purchases of domestic products.
9. The Members recognize that internal maximum price control systems, even though conforming to the other provisions of this Article, can have effects prejudicial to the interests of Member countries supplying imported products. Accordingly, Members applying such systems shall take account of the interests of exporting Member countries with a view to avoiding to the fullest practicable extent such prejudicial effects.

/RECOMMENDED

RECOMMENDED CONSEQUENTIAL CHANGES

Article 16, paragraph 1

"..... and with respect to all matters referred to in paragraphs  
1 and 2 2 and 4 of Article 18....."

Article 22, paragraph 5

5. The provisions of this Article shall apply to any tariff quota instituted or maintained by any Member and, insofar as applicable, the principles of this Article shall also extend to export restrictions and to any internal regulation or requirements under paragraph 2 of Article 18.

Article 30, paragraph 2

2. The provisions of paragraph 1 of this Article shall not apply to imports of products for immediate or ultimate consumption in governmental use and not otherwise for resale or for purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale. With respect to such imports, and with respect to the laws, regulations and requirements referred to in paragraph 4 of Article 18, the Members shall accord to the trade of the other Members fair and equitable treatment.

/INTERPRETATIVE

INTERPRETATIVE NOTES TO ARTICLE 18

Paragraph 1

If any internal tax or other internal charge, or any law, regulation or requirement of the kind referred to in paragraph 1, applying to an imported product and to the like domestic product is collected or enforced in the case of the imported product at the time or point of importation, it is nevertheless to be regarded as an internal tax or other internal charge, or a law, regulation or requirement of the kind referred to in paragraph 1, and is accordingly subject to the provisions of Article 18.

The application of paragraph 1 to internal taxes imposed by local governments within the territory of a Member is subject to the provisions of paragraph 3 of Article 99. The term "reasonable measures" in the last-mentioned paragraph would not require, for example, the repeal of national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article 18, are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments concerned. With regard to taxation by local governments which is inconsistent with both the letter and spirit of Article 18, the term "reasonable measures" would permit a Member to eliminate the inconsistent taxation gradually over a transition period if abrupt action would create serious administrative and financial difficulties.

Paragraph 2

A tax conforming to the requirements of the first sentence of paragraph 2 would be considered to be inconsistent with the second sentence only in cases where competition was involved between, on the one hand, the taxed product, and on the other hand, a directly competitive or substitutable product which was not similarly taxed.

Paragraph 5

Regulations conforming to the first sentence of paragraph 5 shall not be considered to be contrary to the second sentence in any case in which all of the products subject to the regulation are produced domestically in substantial quantities. A regulation cannot be justified as being consistent with the second sentence on the ground that the proportion or amount allocated to each of the products which are the subject of the regulation constitutes an equitable relationship between imported and domestic products.

/INTERPRETATIVE

INTERPRETATIVE NOTE TO ARTICLE 17

It is understood that an internal tax (other than a general tax uniformly applicable to a considerable number of products) which is applied to a product not produced domestically in substantial quantities would be treated as a tariff under Article 17 in any case in which a concession with respect to the tax is necessary to make a tariff concession on the product valid and effective.

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SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III  
WORKING PARTY 3 (ARTICLE 18) AND WORKING PARTY 4 (ARTICLE 19)  
PROVISIONAL REDRAFT: ARTICLE 19

Special Provisions Relating to Cinematograph Films

[/If any Member establishes or maintains/ The provisions of Article 18 do not prevent any Member from establishing or maintaining internal quantitative regulations relating to exposed cinematograph films / . Any such regulations shall take the form of screen quotas which shall conform to the following conditions and 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, [/no/ screen time, including screen time released by administrative action from minimum time reserved for films of national origin, shall [/formally or in effect be allocated/ not be allocated formally or in effect among sources of supply.
- (c) Notwithstanding the provisions of sub-paragraph (b) above, [/Members/ any Member may maintain screen quotas conforming to the [/conditions/ requirements of sub-paragraph (a) which reserve a minimum proportion of screen time for films of a [/national/ specified origin other than that of the Member imposing such screen quotas; PROVIDED that no such minimum proportion of screen time shall be increased above the level in effect on 10 April 1947.
- (d) Screen quotas shall be subject to negotiation for their limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17.