THIRD COMMITTEE: COMMERCIAL POLICY

TEXT OF SECTION A OF CHAPTER IV AS APPROVED IN SECOND READING

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

Article 16*

General Most-favoured nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters within the scope of paragraphs 2 and 4 of Article 13, any advantage, favour, privilege or immunity granted by any Member to any product originating in or destined for any other country, shall be accorded immediately and unconditionally to the like product originating in or destined for all other Member countries respectively.

2. ......
   (c) bis. preferences in force exclusively between the Republic of the Philippines and the United States of America, including the dependent territories of the latter.

3. ......

4. The imposition of a margin of tariff preference not in excess of the amount necessary to compensate for the elimination of a margin of preference in an internal tax existing on 10 April 1947 exclusively between two or more of the territories in respect of which preferential import duties or charges are permitted under paragraph 2 of this Article shall not be deemed to be contrary to the provisions of this Article, it being understood that any such margin of tariff preference shall be subject to the provisions of Article 17.

Interpretative Note

The term "margin of preference" means the absolute difference between the most-favoured-nation rate of duty and the preferential rate of duty for

* Paragraphs 2 and 3 are within the terms of reference of the Joint Sub-Committee of Committees II and III, which has not yet reported.

/the like
the like product, and not the proportionate relation between those rates. As examples:

1. If the most-favoured-nation rate were 36 per cent ad valorem and the preferential rate were 24 per cent ad valorem, the margin of preference would be 12 per cent ad valorem, and not one-third of the most-favoured-nation rate;

2. If the most-favoured-nation rate were 36 per cent ad valorem and the preferential rate were expressed as two-thirds of the most-favoured-nation rate, the margin of preference would be 12 per cent ad valorem;

3. If the most-favoured-nation rate were 2 francs per kilogram and the preferential rate were 1.50 francs per kilogram, the margin of preference would be 0.50 francs per kilogram.

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

(i) the re-application to an imported product of a tariff classification or rate of duty, properly applicable to such product, in cases in which the application of such classification or rate to such product was temporarily suspended or inoperative on 10 April 1947; and

(ii) the classification of a particular product under a tariff item other than that under which importations of that product were classified on 10 April 1947, in cases in which the tariff law clearly contemplates that such product may be classified under more than one tariff item.

ANNEXES PERTAINING TO PARAGRAPH 2 OF ARTICLE 16

ANNEX A*

List of Territories Referred to in Paragraph 2 (a) of Article 16

United Kingdom of Great Britain and Northern Ireland.
Dependent territories of the United Kingdom of Great Britain and Northern Ireland.
Canada.
Commonwealth of Australia.
Dependent territories of the Commonwealth of Australia.

* Only the last two paragraphs of Annex A were approved finally by the Third Committee. The remainder of the Annex comes within the terms of reference of the Joint Sub-Committee of Committees II and III which has not yet reported.

/ New Zealand. 
New Zealand.
Dependent territories of New Zealand.
Union of South Africa including South West Africa.
Ireland.
India.
Newfoundland.
Pakistan*.
Southern Rhodesia.
Burma.
Ceylon.

Certain of the territories listed above have two or more preferential rates in force for certain products. Any such territory may, by agreement with the other Members which are principal suppliers of such products at the most-favoured-nation rate, substitute for such preferential rates a single preferential rate which shall not on the whole be less favourable to suppliers at the most-favoured-nation rate than the preferences in force prior to such substitution.

The preferential arrangements referred to in paragraph 5 (b) of Article 23 are those existing in the United Kingdom on 10 April 1947, under contractual agreements with the Governments of Canada, Australia and New Zealand, in respect of chilled and frozen beef and veal, frozen mutton and lamb, chilled and frozen pork, and bacon. Without prejudice to any action taken under sub-paragraph (a) of paragraph 1 of Article 16, negotiations shall be entered into when practicable among the countries substantially concerned or involved, in the manner provided for in Article 17, for the elimination of these arrangements or their replacement by tariff preferences. If after such negotiations have taken place a tariff preference is created or an existing tariff preference is increased to replace these arrangements such action shall not be considered to contravene Article 16 or Article 17.

The film hire tax in force in New Zealand on 10 April 1947 shall, for the purpose of this Charter, be treated as a customs duty falling within Articles 16 and 17. The renters' film quota in force in New Zealand on 10 April 1947, shall for the purposes of this Charter be treated as a screen quota falling within Article 19.

* The Third Committee approved the deletion of the words "as at 10 April 1947" appearing in parenthesis after the word "India" in the Geneva text and to add Pakistan, subject to examination by the Joint Sub-Committee of Committees II and III in order to ascertain whether these changes would created any difficulties with respect to paragraph 3 of Article 16.

/ANNEX D
ANNEX D

List of Territories of the United States of America
Referred to in Paragraph 2 (b) of Article 16

United States of America (customs territory).
Dependent territories of the United States of America.

Article 17
Reduction of Tariffs and Elimination of Preferences

1. Each Member shall, upon the request of any other Member or Members, and subject to procedural arrangements established by the Organization, enter into and carry out with such other Member or Members negotiations directed to the substantial reduction of the general levels of tariffs and other charges on imports and exports and to the elimination of the preferences referred to in paragraph 2 of Article 16, on a reciprocal and mutually advantageous basis.

2. The negotiations provided for in paragraph 1 shall proceed in accordance with the following rules:

(a) Such negotiations shall be conducted on a selective product-by-product basis which will afford an adequate opportunity to take into account the needs of individual countries and individual industries. Members shall be free not to grant concessions on particular products and, in the granting of a concession, they may either reduce the duty, bind it at its then existing level, or undertake not to raise it above a specified higher level.

(b) No Member shall be required to grant unilateral concessions, or to grant concessions to other Members without receiving adequate concessions in return. Account shall be taken of the value to any Member of obtaining in its own right and by direct obligation the indirect concessions which it would otherwise enjoy only by virtue of Article 16.

(c) In the negotiations relating to any specific product

(i) when a reduction is negotiated only in the most-favoured-nation rate, such reduction shall operate automatically to reduce or eliminate the margin of preference applicable to that product;

(ii) when a reduction is negotiated only in the preferential rate, the most-favoured-nation rate shall automatically be reduced to the extent of such reduction;

(iii) when it is agreed that reductions will be negotiated in both the most-favoured-nation rate and the preferential rate, the /reduction in
reduction in each shall be that agreed by the parties to the negotiations;

(iv) no margin of preference shall be increased.

(d) The binding against increase of low duties or of duty-free treatment shall in principle be recognized as a concession equivalent in value to the substantial reduction of high duties or the elimination of tariff preferences.

(e) Prior international obligations shall not be invoked to frustrate the requirement under paragraph 1 of this Article to negotiate with respect to preferences, it being understood that agreements which result from such negotiations and which conflict with such obligations shall not require the modification or termination of such obligations except (i) with the consent of the parties to such obligations, or, in the absence of such consent, (ii) by modification or termination of such obligations in accordance with their terms.

3. The negotiations leading to the General Agreement on Tariffs and Trade, concluded at Geneva on 30 October 1947, shall be deemed to be negotiations pursuant to this Article. The concessions agreed upon as a result of all other negotiations completed by a Member pursuant to this Article shall be incorporated in the General Agreement on terms to be agreed with the parties thereto. If any Member enters into any agreement relating to tariffs or preferences which is not concluded pursuant to this Article, the negotiations leading to such agreement shall nevertheless conform to the requirements of paragraph 2 (c) of this Article.

4. If any Member considers that any other Member has failed to fulfill its obligations under paragraph 1 of this Article, such Member may refer the matter to the Organization, which, after investigation, shall make appropriate recommendations to the Members concerned. If the Organization finds that a Member has failed without sufficient justification, having regard to all relevant circumstances, including the developmental and other needs and the general fiscal structures of the Member countries concerned, and to the provisions of the Charter as a whole, to carry out negotiations within a reasonable period of time in accordance with the provisions of paragraphs 1 and 2 of this Article, the Organization may waive the requirements of Article 16 to the extent necessary to permit the complaining Member or Members to withhold from the trade of the other Member any of the tariff benefits which may have been negotiated pursuant to paragraph 1 of this Article, and embodied in Part I of the General Agreement on Tariffs and Trade. If such benefits are in fact withheld, so as to result in the application to the trade of the other Member of tariffs higher than would otherwise have been applicable,
such other Member shall then be free, within sixty days after such action becomes effective, to give written notice of withdrawal from the Organization. The withdrawal shall take effect upon the expiration of sixty days from the day on which such notice is received by the Organization.*

5. The provisions of this Article shall operate in accordance with the provisions of Article 81.*

**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 this Article in any case in which a tariff concession on the product would not be of substantial value unless accompanied by a binding or a reduction of the tax.

Sub-paragraph 2 (d)

In the event of the devaluation of a Member's currency, or of a rise in prices, the effects of such devaluation or rise in prices would be a matter for consideration during negotiations in order to determine, first, the change, if any, in the protective incidence of the specific duties, of the Member concerned and, secondly, whether the binding of such specific duties represents in fact a concession equivalent in value to the substantial reduction of high duties or the elimination of tariff preferences.

**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, or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products 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

* Paragraphs 4 and 5 of Article 17 were approved subject to reopening only to consider any changes which may be recommended by the Tripartite Working Party of Sub-Committee A of the Third Committee, Sub-Committee D of the Sixth Committee and the Joint Sub-Committee of the Second and Sixth Committees and approved by the Sub-Committees concerned.
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 it 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.*

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 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.

6. The provisions of paragraph 5 shall not apply to any internal quantitative regulation in force in any Member country on 1 July 1939, 10 April 1947 or on the date of this Charter, at the option of that Member; provided that any such regulation which would be in conflict with the provisions of paragraph 5 shall not be modified to the detriment of imports and shall be subject to negotiation 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.

* The Central Drafting Committee is requested to correct a divergence between the French and English texts of paragraph 3. The Third Committee accepted the French text, and suggests that the English text might be corrected by changing the word "its" in the sixth line to "such".

Paragraph 3 was approved provisionally subject to consideration of any changes recommended by Working Party 7 on Article 18.

/8. (a) The provisions
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 with a view to commercial resale or with a view to use in the production of goods for commercial sale; (b) The provisions of this Article shall not prevent the payment of subsidies exclusively to domestic producers, 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.

2. The Members recognize that internal maximum price control measures, 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 measures shall take account of the interests of exporting Member countries with a view to avoiding to the fullest practical extent such prejudicial effects.

Interpretative Notes

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 as 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.

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 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.

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
and on the other hand, a directly competitive or substitutable product which was not similarly taxed.

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 regulations 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.

Article 19

Special Provisions Relating to Cinematograph Films

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, screen time, including screen time released by administrative action from minimum 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) above, any Member may maintain screen quotas conforming to the requirements of sub-paragraph (a) which reserve a minimum proportion of screen time for films of a 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 and shall accordingly be treated as customs duties for the purposes of Article 17.