THIRD COMMITTEE: COMMERCIAL POLICY

SECTION D - STATE TRADING AND RELATED MATTERS

(Text approved in second reading)

Article 30

Non-Discriminatory Treatment

1. (a) Each Member undertakes that if it establishes or maintains a State enterprise, wherever located, or grants to any enterprise, formally or in effect, exclusive or special privileges, such enterprise shall, in its purchases or sales involving either imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment prescribed in this Charter for governmental measures affecting imports or exports by private traders.

   (b) The provisions of sub-paragraph (a) of this paragraph shall be understood to require that such enterprises shall, having due regard to the other provisions of this Charter, make any such purchases or sales solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale, and shall afford the enterprises of the other Members adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.

   (c) No Member shall prevent any enterprise (whether or not an enterprise described in sub-paragraph (a) of this paragraph) under its jurisdiction from acting in accordance with the principles of sub-paragraphs (a) and (b) of this paragraph.

2. The provisions of paragraph 1 of this Article shall not apply to imports 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. 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.
INTERPRETATIVE NOTES

Paragraph 1

1. Different prices for sales and purchases of products in different markets are not precluded by the provisions of this Article, provided that such different prices are charged or paid for commercial reasons having regard to differing conditions, including supply and demand, in such markets.

2. Sub-paragraphs 1 (a) and (b) of this Article shall not be construed as applying to the trading activities of enterprises to which a Member has granted licenses or other special privileges.

(a) solely to ensure standards of quality and efficiency in the conduct of its external trade;

(b) for the exploitation of its natural resources;

Provided that the Member does not thereby establish or exercise effective control or direction of the trading activities of the enterprise in question, or create a monopoly whose trading activities are subject to effective governmental control or direction.

Article 30 A
Marketing Organizations

If a Member establishes or maintains a marketing board, commission or similar organization it shall:

(a) be subject to the provisions of paragraph 1 of Article 30 with respect to purchases or sales by such organizations; and

(b) with respect to any regulations of such organizations governing the operations of private enterprises, be subject to the other relevant provisions of the Charter.

Article 31
Expansion of Trade

1. If a Member establishes, maintains or authorizes, formally or in effect, a monopoly of the importation or exportation of any product, such Member shall, upon the request of any other Member or Members having a substantial interest in trade with it in the product concerned, negotiate with such Member or Members in the manner provided for under Article 17 in respect of tariffs, and subject to all the provisions of this Charter with respect to such tariff negotiations, with the object of achieving:

(a) in the case of an export monopoly, arrangements designed to limit or reduce any protection that might be afforded through the operation of the monopoly
the monopoly to domestic users of the monopolized product or designed to assure exports of the monopolized product in adequate quantities at reasonable prices; or

(b) in the case of an import monopoly, arrangements designed to limit or reduce any protection that might be afforded through the operation of the monopoly to domestic producers of the monopolized product, or designed to reduce any limitation of imports which is comparable with a limitation made subject to negotiation under other provisions of this Chapter.

2. In order to satisfy the requirements of sub-paragraph 1 (b) of this Article, the Member maintaining a monopoly shall negotiate

(a) for the establishment of the maximum import duty that may be imposed in respect of the product concerned; or

(b) for any other mutually satisfactory arrangement consistent with the provisions of this Charter if it is evident to the negotiating parties that to negotiate a maximum import duty under sub-paragraph (a) of this paragraph is impracticable or would be ineffective for the achievement of the objectives of paragraph 1 of this Article.

Any Member entering into negotiations under sub-paragraph (b) of this paragraph shall afford to other interested Members an opportunity for consultation.

3. In any case in which a maximum import duty is not negotiated under paragraph 2 (a) of this Article, the Member maintaining the import monopoly shall make public or notify the Organization of the maximum import duty which it will apply in respect of the product concerned.

4. The price charged by the import monopoly for the imported product in the home market shall not exceed the landed cost plus the maximum import duty negotiated under paragraph 2 of this Article or made public or notified to the Organization under paragraph 3 of this Article exclusive of internal taxes, transportation, distribution and other expenses incident to the purchase, sale or further processing, and a reasonable margin of profit; Provided that regard may be had to average landed costs and selling prices over recent periods; and Provided further that, where the product concerned is a primary commodity and the subject of a domestic price stabilization arrangement, provision may be made for adjustment to take account of wide fluctuations or variations in world prices subject, where a maximum duty has been negotiated, to agreement between the countries parties to the negotiation.

5. With regard to any product to which the provisions of this Article apply the monopoly shall, wherever this principle can be effectively applied and subject to the other provisions of this Charter, import and offer for sale /such quantities
such quantities of the product as will be sufficient to satisfy the full
domestic demand for the imported product, account being taken of any
rationing to consumers of the imported and like domestic product which may
be in force at that time.
6. In applying the provisions of this Article, due regard shall be had
for the fact that some monopolies are established and operated mainly for
social, cultural, humanitarian or revenue purposes.
7. This Article shall not limit the use by Members of any form of
assistance to domestic producers permitted by other provisions of this
Charter.

INTERPRETATIVE NOTES

Paragraphs 2, 3 and 4.

The term "maximum import duty" would cover the monopoly margin which
has been negotiated or which has been published or notified to the Organization
whether or not collected, wholly or in part, at the customs as an ordinary
customs duty.

Paragraph 4.

With reference to the second proviso the method and degree of adjustment
to be permitted in the case of a primary commodity that is the subject of a
domestic price stabilization arrangement should normally be a matter for
agreement at the time of the negotiations under sub-paragraph (a) of
paragraph 2.

Article 31A
Liquidation of Non-Commercial Stocks

1. If a Member holding stocks of any primary commodity accumulated
for non-commercial purposes should liquidate such stocks, it shall carry out
such liquidation, as far as practicable, in a manner that will avoid serious
disturbance to world markets for the commodity concerned.

2. Any such Member shall
(a) give not less than four months public notice of its intention
to liquidate such stocks; or
(b) give not less than four months prior notice to the Organization of
such intention.

3. The Member concerned shall, at the request of any Member which considers
itself substantially interested, consult as to the best means of avoiding
substantial injury to the economic interests of producers and consumers of
the primary commodity in question. In cases where the interests of several
Members might be substantially affected, the Organization may participate in
/such consultation,
such consultation, and the Member holding these stocks shall give due consideration to its recommendations.

4. The provisions of paragraphs 2 and 3 shall not apply to routine disposal of supplies necessary for the rotation of stocks to avoid deterioration.