THIRD COMMITTEE: COMMERCIAL POLICY

REVISED ANNOTATED AGENDA FOR CHAPTER IV

SECTION C - SUBSIDIES

For the convenience of delegates the Agenda for Chapter IV is issued in six parts (numbered C.3/6 to C.3/11), one for each of the six Sections of the Chapter. This revised Agenda includes all the items which appeared in the preliminary Agenda (E/CONF.2/C.3/1) and all proposals received from delegations up to Monday, 8 December. The amendments to Section C have already been issued separately in the following documents:

- Cuba: C.3/1/Add.52
- Ecuador: C.3/1/Add.49
- Netherlands: C.3/1/Add.25
- Peru: C.3/1/Add.51
- Sweden: C.3/1/Add.40
- United States: C.3/1/Add.41
- Venezuela: C.3/1/Add.44

General Note:

1. The amendments submitted by the delegation of the United States are of such a character that the Committee may wish to consider them as a whole, rather than Article by Article. They are therefore presented as a whole at the end of the agenda, together with the accompanying explanatory notes submitted by the United States delegation. This arrangement is not, of course, intended to prejudge the order in which the Committee may decide to consider the agenda.

Article 25 - Subsidies in General

2. The delegation of Cuba proposes (C.3/1/Add.52) that the words "direct or indirect" be inserted after the word "subsidy" in the second line of this Article.

3. Attention is drawn to the amendments to this Article proposed by the delegation of the United States and shown at the end of this agenda.

Article 26 - Additional Provisions on Export Subsidies

4. General. At Geneva the delegation of Cuba reserved its position on this Article.

5. Paragraph 2. The delegation of Sweden proposes (document C.3/1/Add.40) that the words "directly or indirectly" should be inserted between the words "taxes" and "imposed".

/Explanatory note
Explanatory note by the delegation of Sweden.

The exception ought to comprise also duties on raw materials and semi-manufactured goods used for the production of the exported articles.

6. Paragraph 3. The delegation of Argentina proposes (11/Add.3) the deletion of most of this paragraph, beginning with the word "but" in the third line.

7. Proposed New Paragraph. The delegation of Venezuela proposes (C.3/31/Add.44) that the following paragraph be added to this Article:

"5. The provisions of Article 26, paragraph 1, shall not be construed as applying to such subsidies as a Member may, in order to maintain employment in the production of raw materials and foodstuffs, grant in respect of one or several products, the cost of production of which has increased owing to the maintenance of a rate of exchange intended to maintain the external purchasing power of the Member country. This exception shall be allowable only on condition that the subsidy granted does not result in the sale of the subsidized product on foreign markets at prices less than those of the like product produced in other exporting countries."

Article 27 - Special Treatment of Primary Commodities

8. Paragraph 1. The delegation of Venezuela proposes (C.3/1/Add.44) that the words "that the system has also resulted" in sub-paragraph (a) be replaced by the words "that the system may also result."

9. Proposed new paragraph 2. The delegation of the Netherlands proposes (C.3/1/Add.25) the insertion of a new paragraph after paragraph 1 and the consequent renumbering of paragraphs 2 and 3:

"2. A system for the stabilization of the domestic price or of the return of domestic producers of a primary commodity, independently of the movement of import prices, which results at times in the sale of the product to buyers in the domestic market higher than the comparable landed cost for the imported product, shall be considered as a case under Article 25, even when it is determined:

(a) that the system has also resulted in the sale of the product to buyers in the domestic market at a price lower than the comparable landed cost for the imported product, and

(b) That the system is so operated, either because of the effective regulation of production or otherwise, as not to reduce imports unduly or otherwise seriously prejudice the interests of other Members."

Explanatory remarks by the delegation of the Netherlands

/(i) Many
(1) Many Governments have pledged themselves to some kind of domestic price stabilization arrangement for agricultural products. The objective of such arrangements have been recognized on different occasions, especially within the framework and organization of the FAO, to be to the interest of both consumers and producers, provided the price range of the stabilization scheme is "reasonable and fair".

(ii) The proposed ITO Charter has the duty to safeguard the interests of Members in case such price stabilization schemes are put into action.

(iii) In the case of a country producing more than its requirements for domestic consumption, leaving an export surplus of such commodity, the provisions of Article 27, together with Article 31, 1 (a), Article 33 (5) and Article 43 I, (1) give sufficient scope for the operation of a price stabilization scheme.

(iv) In the case of a country producing less than its requirements for domestic consumption, importing the balance of such commodity, the provisions are less coherent and there seems to be a definite gap in those provisions, presumably because the approach to this problem has been made at the sessions of the Preparatory Committee in different committees dealing with different sections of the Charter and therefore an analysis of these provisions seems necessary.

(v) A distinction has been made in the Charter between monopolized or state-trading in imported agricultural commodities and private trade. Where state-trading is involved, Article 31, 1 (b), in connection with Article 31 2 (b) and the second proviso in Article 31 (4) give scope for a domestic price stabilization arrangement.

(vi) There is in this Article a balance between the right of a nation to stabilize domestic prices of agricultural products and the obligation to negotiate with other interested Members to prevent undue limitation of imports and to come to an agreement with countries parties to the negotiation.

(vii) As to giving public notice of the arrangements of such price stabilization schemes, Article 31 (3) provides for publication of
publication of the maximum import duty which will be applied in respect of the product concerned.

(Viii) When the importing country has no state-trading system for the importation of the product concerned, the Charter has far less provision to safeguard national interests and prevent at the same time prejudice to the interests of member nations.

(Ix) In case of a "burdensome surplus" as considered in Article 59, there is possibility of a price stabilization in the framework of an inter-governmental commodity control agreement, or, if such agreement cannot be reached, by the application of Article 20, 2 (c).

(x) However, many nations want to establish price stabilization schemes before any such burdensome surplus comes into existence and as a matter of fact in the present period of scarcity stabilize domestic prices by subsidies on the importation of basic foodstuffs. This type of subsidy is consistent with all the provisions of the Charter, but there are no provisions in case the trend of world market prices comes below the stabilized price range for domestic production.

(xi) Evidently, at the same moment where the world market price drops below the floor of this price range, a subsidy to domestic producers is involved. But it would be an undue burden on these producers who missed the previous higher world market prices, to be forced all at once to quantitative restrictions of production and such policy would hamper the generally accepted principles of an expanding world production and consumption.

(xii) On the other hand, it is highly desirable that the Organization should be kept informed from the beginning about the nature and the operation of any such price stabilization scheme and that any Member, applying such system, should be prepared to discuss the possibility of limiting the subsidization. Such consultations might, according to Article 27 (2), lead to the conclusion that "special difficulties under Chapter VI" are the root cause of the problem, or they might simply lead to an agreement on quantities to be imported or produced or on the maximum import duty to be applied.

/(xiii) In any such
In any such case it will be necessary to have the facts about the nature and the operation of the scheme. The proposed amendment defines the basic requirements of a sound and unharmed price stabilization scheme, viz., domestic prices at times below and at times above world market prices and safeguards against serious prejudice to the interests of other Members.

It might be added that Article 29 already has a provision for subsidies which operate directly or indirectly to reduce imports of the product concerned in general, but that Article 27 lacks the provisions for special treatment of an imported primary commodity. It must further be noted that, if the measures provided for in Chapter VI have not succeeded in the case of importation of an agricultural commodity the rule of Article 20, (2), (c) still stands to safeguard the interests of exporters of that commodity.

10. **Paragraphs 2 and 3.** The delegations of Argentina and Peru propose (II/ADD.3 and C.3/1/Add.51 respectively) the deletion of these two paragraphs.

11. **Paragraph 3.** At Geneva the delegation of the United States reserved its position on paragraph 3 of Article 27 and on Article 28. (See amendments now proposed by the United States delegation, and shown at the end of this agenda).

**Article 28 - Undertaking Regarding Stimulation of Exports**

12. The delegation of Argentina proposes (II/ADD.3) the deletion of this Article.

13. At Geneva the delegation of the United States reserved its position. (See note on paragraph 3 of Article 27 above).

14. **The Committee may wish to re-examine the Article references contained in the first three lines of Article 28.** For example, the qualification regarding the use of export subsidies contained in Article 28 would not seem applicable to paragraph 1 of Article 26, which in fact establishes a general prohibition of export subsidies.

Also it is not clear that Article 28 can apply in the case of paragraph 2 of Article 26, since the payments referred to in the latter paragraph "shall be considered as a case under Article 25" (to which Article 28 does not refer) while "excess payments" are subject to the general prohibition contained in paragraph 1 of Article 26.

On the other hand, it may be considered desirable to extend the qualification contained in Article 28 to apply to paragraph 4 of Article 26, since a subsidy applied by a Member under this paragraph, whilst doing no more familiar
than offset a subsidy granted by a non-Member might, in certain circumstances, have the effect of increasing the Member's share of world trade in the product concerned.

Article 22 - Procedure

15. The delegation of Argentina proposes (Add.3) the deletion of this Article.

16. The delegation of Ecuador proposes (C.3/Add.49) the insertion, between the words "operation of" and "this Section" in line 2, of:

"Articles 25, 26, 27 and 28 of"

Proposed New Article to Follow Article 29

17. The delegation of Ecuador proposes (C.3/Add.49) the insertion of the following new Article after Article 29:

"Article --

The Equitable Regulation of Prices in International Trade

1. The Members recognize that the permanent maintenance of an equitable relationship between the prices of raw materials and manufactured products in a manner ensuring just standards of living for the countries devoted primarily to the production of raw materials is an essential condition for the achievement of the objectives referred to in Article 1 of this Charter, with a view to promoting the well-being of the nations and strengthening the foundations of world peace.

2. The Members recognize that the permanent maintenance of an equitable price adjustment in international trade requires domestic action as well as joint action under the sponsorship of the United Nations Economic and Social Council and the International Trade Organization in collaboration with the appropriate inter-governmental organizations, each of these bodies acting within its respective sphere and in accordance with its basic instrument.

3. Each Member may, acting in the spirit of this Charter, and for the achievement of the objectives specified therein, initiate measures for the establishment of equitable prices within its territories and for their permanent maintenance in a manner permitting the establishment and maintenance of standards of living consistent with the satisfaction of the basic needs of man and the progress of the community.

4. The Members of the Organization should participate in arrangements prepared or sponsored by the Economic and Social Council of the United Nations, including arrangements made by the appropriate inter-governmental organizations, to devise measures for the achievement of the objectives set forth in previous articles, especially if such arrangements are concerned with the following:

/(a) the systematic
(a) the systematic collection and analysis of information exchanged on problems of price regulation, probable trends and policies adopted in this connection;
(b) consultations with regard to concerted action by Governments and inter-governmental organizations in connection with the policy of equitable price regulation."

United States: Proposed Amendments

18. The delegation of the United States proposes (C.3/1/Add.41) the following amendments to Section C of Chapter IV: (Note: Underlining indicates proposed additions to the text; square brackets indicate proposed deletions).

Article 25 - Subsidies in General

If any Member grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to maintain or increase exports of any product from, or to restrict imports of any product into, its territory, the Member shall notify the Organization in writing of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from the territory of the Member and of the circumstances making the subsidization necessary. In any case in which a Member considers that serious prejudice to its interest of any other Member is caused or threatened by any such subsidization, the Member granting the subsidy shall, upon request, discuss with the other Member or Members concerned, or with the Organization, the possibility of limiting the subsidization.

Article 26 - Additional Provisions on Export Subsidies

1. Except with respect to primary products, no Member shall grant directly or indirectly any subsidy on the exportation of any product, or establish or maintain any other system, which subsidy or system results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, due allowance being made for differences in the conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. Notwithstanding the provisions of paragraph 1 of this Article a Member may exempt. The exemption of exported products from duties or taxes imposed in respect of like products when consumed domestically, or the remission of such duties or taxes which have accrued, in amounts not in excess of those which have been collected, shall not be
shall not be construed to be in conflict with the provisions of paragraph 1 of this Article. The use of the proceeds of such duties or taxes to make payments to domestic producers shall be considered as a case under Article 25, except insofar as such payments subside exportation, in the sense of paragraph 1 of this Article, by more than the amount of the duties or taxes remitted or not imposed, in which case the provisions of paragraph 1 of this Article shall apply to such excess payments.

Article 27 - Undertaking regarding Stimulation of Exports

1. Notwithstanding the provisions of paragraphs 1, 2 and 3 of Article 26 and of paragraph 3 of Article 27, no Member shall grant any subsidy on the exportation of any product which has the effect of any Member granting any form of subsidy which operates, directly or indirectly, to maintain or increase the exportation of any primary product from its territory, shall not apply the subsidy in such a way as to have the effect of maintaining or acquiring for that Member a share of world trade in that product in excess of the share which it had during a previous representative period, account being taken insofar as practicable of any special factors which may have affected or may be affecting the trade in that product. The selection of a representative period for any product and the appraisal of any special factors affecting the trade in the product shall be made initially by the Member granting the subsidy; Provided that such Member shall, upon the request of any other Member having an important interest in the trade in that product, or upon the request of the Organization, consult promptly with the other Member or with the Organization regarding the need for an adjustment of the base period selected or for the re-appraisal of the special factors involved.

2. Should the Organization, upon complaint by a Member that serious prejudice to its interest was caused or threatened by any subsidization of the kind referred to in this Article find that such serious prejudice was in fact caused or threatened and that the consultation provided for in this Section had not resulted in such limitation of the subsidization as would avoid such prejudice, the Organization may authorize the complaining Member to suspend the application to the subsidizing Member of such obligations or concessions under or pursuant to this Charter as the Organization determines to be appropriate."

Explanatory Notes by the United States Delegation. (Numbers in sub-headings refer to the Geneva text of the Draft Charter):

Article 25. In the Geneva Draft this Article might be interpreted to apply only when there is a change in the volume of trade; under the present amendment it would apply to a subsidy tending to affect trade, even if other factors prevented any actual change in the volume of trade.
In the Geneva Draft a Member cannot call a subsidizing Member into consultation until it is determined that its interest is seriously prejudiced; under the present amendment the determination of prejudice would be made by the complaining Member itself.

Articles 26 and 27. Paragraph 1 of Article 26 in the Geneva Draft bans export subsidies on all types of products; paragraphs 3 and 4 of Article 26, and all of Article 27, outline detailed and complicated exceptions relating essentially to primary products. Under the proposed amendment, Article 26 applies only to non-primary products; the exceptions set forth in paragraphs 3 and 4 of the Article, and in Article 27, are, therefore, rendered unnecessary.

The changes suggested in paragraph 2 of Article 26 are purely of a drafting character.

Article 28. The Geneva draft discriminates between subsidies which directly stimulate exports and those which operate indirectly to do so. The proposed amendment removes this discrimination. It affords insurance that no form of subsidization shall be used to increase any Member's share in world trade. Since export subsidies on non-primary products would be banned by Article 26 and since domestic subsidies on such products would not appear to present a serious problem so far as stimulating exports is concerned, the provisions of Article 28 would apply only to primary products.

The proposed paragraph 2 establishes a procedure whereby a Member who is injured by direct or indirect subsidization of exports can complain to the Organization and, if its complaint is found to be justified, can obtain permission to take offsetting action. This paragraph is designed to put teeth into the general rule established by the Article.

Article 29. Since the foregoing amendments would do away with all of the ITO determinations that are required under the Geneva Draft, this Article becomes superfluous.