THIRD COMMITTEE: COMMERCIAL POLICY

CHAPTER IV: COMMERCIAL POLICY

DRAFT REPORT TO THE CONFERENCE

PART II

This part of the Draft Report of Committee III contains the texts of the following Articles as approved after consideration of the Reports of the Central Drafting Committee:

Section A - Articles 18 and 19
Section B - Articles 20 to 22
Section C - Articles 25 to 28
Section D - Articles 30 to 31A
Section E - Articles 32 to 38

The remaining Articles (16, 17, 23, 24, 40, 41, 42, 42A, 42B and 43) as well as an Annex containing all the Interpretative Notes for Chapter IV, will be issued separately.

/Article 18
Article 18

National Treatment on Internal Taxation and Regulation

1. The Members recognize that internal taxes and other internal charges, and laws, regulations and 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 apply internal taxes or other internal 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 April 10, 1947, in which the import duty 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 the obligations of such trade agreement in order to permit the increase of such duty 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. The provisions of 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 July 1, 1939, April 10, 1947 or on the date...
on the date of this Charter, at the option of that Member; Provided that any such regulation which is contrary to the provisions of paragraph 5 shall not be modified to the detriment of imports and shall be subject to negotiations and shall accordingly 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.

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.

9. 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 practicable extent such prejudicial effects.

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

(c) Notwithstanding the provisions of sub-paragraph (b), 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 such minimum proportion of screen time shall not be increased above the level in effect on April 10, 1947.

(d) Screen quotas shall be subject to negotiation and shall accordingly be treated as customs duties for the purposes of Article 17.
SECTION B - QUANTITATIVE RESTRICTIONS AND EXCHANGE CONTROL

Article 20

General Elimination of Quantitative Restrictions

1. No prohibitions or restrictions other than duties, taxes or other charges whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any Member on the importation of any product of any other Member country or on the exportation or sale for export of any product destined for any other Member country.

2. The provisions of paragraph 1 shall not extend to the following:

(a) export prohibitions or restrictions applied for the period necessary to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting Member country;

(b) import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade; if, in the opinion of the Organization, the standards or regulations adopted by a Member under this sub-paragraph have an unduly restrictive effect on trade, the Organization may request the Member to revise the standards or regulations; Provided that it shall not request the revision of standards internationally agreed pursuant to recommendations made under paragraph 7 of Article 38;

(c) import restrictions on any agricultural or fisheries product, imported in any form, necessary to the enforcement of governmental measures which operate effectively:

(i) to restrict the quantities of the like domestic product permitted to be marketed or produced, or, if there is no substantial domestic production of the like product, of a domestic agricultural or fisheries product for which the imported product can be directly substituted; or

(ii) to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic agricultural or fisheries product for which the imported product can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level; or
(iii) to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible.

3. With regard to import restrictions applied under the provisions of paragraph 2 (c):

(a) such restrictions shall be applied only so long as the governmental measures referred to in paragraph 2 (c) are in force, and, when applied to the import of products of which domestic supplies are available during only a part of the year, shall not be applied in such a way as to prevent their import in quantities sufficient to satisfy demand for current consumption purposes during those periods of the year when like domestic products, or domestic products for which the imported product can be directly substituted, are not available;

(b) any Member intending to introduce restrictions on the importation of any product shall, in order to avoid unnecessary damage to the interests of exporting countries, give notice in writing as far in advance as practicable to the Organization and to Members having a substantial interest in supplying that product, in order to afford such Members adequate opportunity for consultation in accordance with the provisions of paragraphs 2 (a) and 4 of Article 22, before the restrictions enter into force. At the request of the importing Member concerned, the notification and any information disclosed during the consultations shall be kept strictly confidential;

(c) any Member applying such restrictions shall give public notice of the total quantity or value of the product permitted to be imported during a specified future period and of any change in such quantity or value;

(d) any restrictions applied under paragraph 2 (c) (i) shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion which might reasonably be expected to rule between the two in the absence of restrictions. In determining this proportion, the Member applying the restrictions shall pay due regard to the proportion prevailing during a previous representative period and to any special factors which may have affected or may be affecting the trade in the product concerned.

/4. Throughout
4. Throughout this Section the terms "import restrictions" and "export restrictions" include restrictions made effective through state-trading operations.

Article 21

Restrictions to Safeguard the Balance of Payments

1. The Members recognize that:
   (a) it is primarily the responsibility of each Member to safeguard its external financial position and to achieve and maintain stable equilibrium in its balance of payments;
   (b) an adverse balance of payments of one Member country may have important effects on the trade and balance of payments of other Member countries, if it results in, or may lead to, the imposition by the Member of restrictions affecting international trade;
   (c) the balance of payments of each Member country is of concern to other Members, and therefore it is desirable that the Organization should promote consultations among Members and, where possible, agreed action consistent with this Charter for the purpose of correcting a maladjustment in the balance of payments; and
   (d) action taken to restore stable equilibrium in the balance of payments should, so far as the Member or Members concerned find possible, employ methods which expand rather than contract international trade.

2. Notwithstanding the provisions of paragraph 1 of Article 20, any Member, in order to safeguard its external financial position and balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the provisions of the following paragraphs of this Article.

3. (a) No Member shall institute, maintain or intensify import restrictions under this Article except to the extent necessary
   (i) to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or
   (ii) in the case of a Member with very low monetary reserves, to achieve a reasonable rate of increase in its reserves.

   Due regard shall be paid in either case to any special factors which may be affecting the Member's reserves or need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.

/(b) A Member
(b) A Member applying restrictions under sub-paragraph (a) shall progressively relax and ultimately eliminate them, in accordance with provisions of that sub-paragraph, as its external financial position improves. This provision shall not be interpreted to mean that a Member is required to relax or remove such restrictions if that relaxation or removal would thereupon produce conditions justifying the intensification or institution, respectively, of restrictions under sub-paragraph (a).

(c) Members undertake:

(i) not to apply restrictions so as to prevent unreasonably the importation of any description of merchandise in minimum commercial quantities the exclusion of which would impair regular channels of trade, or restrictions which would prevent the importation of commercial samples or prevent the importation of such minimum quantities of a product as may be necessary to obtain and maintain patent, trade mark, copyright or similar rights under industrial or intellectual property laws;

(ii) to apply restrictions under this Article in such a way as to avoid unnecessary damage to the commercial or economic interests of any other Member, including interests under Articles 3 and 9.

4. (a) The Members recognize that in the early years of the Organization all of them will be confronted in varying degrees with problems of economic adjustment resulting from the war. During this period the Organization shall, when required to take decisions under this Article or under Article 23, take full account of the difficulties of post-war adjustment and of the need which a Member may have to use import restrictions as a step towards the restoration of equilibrium in its balance of payments on a sound and lasting basis.

(b) The Members recognize that, as a result of domestic policies directed toward the fulfilment of a Member's obligations under Article 3 relating to the achievement and maintenance of full and productive employment and large and steadily growing demand, or its obligations under Article 9 relating to the reconstruction or development of industrial and other economic resources and to the raising of standards of productivity, such a Member may find that demands for foreign exchange on account of imports and other current payments are absorbing the foreign exchange resources currently available to it in such a manner as to exercise pressure on its monetary reserves which would justify the institution or maintenance of restrictions...
under paragraph 3 of this Article. Accordingly,

(i) no Member shall be required to withdraw or modify restrictions which it is applying under this Article on the ground that a change in such policies would render these restrictions unnecessary;

(ii) any Member applying import restrictions under this Article may determine the incidence of the restrictions on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential in the light of such policies.

(c) Members undertake, in carrying out their domestic policies, to pay due regard to the need for restoring equilibrium in their balance of payments on a sound and lasting basis and to the desirability of assuring an economic employment of productive resources.

5. (a) Any Member which is not applying restrictions under this Article, but is considering the need to do so, shall, before instituting such restrictions (or, in circumstances in which prior consultation is impracticable immediately after doing so), consult with the Organization as to the nature of its balance-of-payments difficulties, alternative corrective measures which may be available, and the possible effect of such measures on the economies of other Members. No Member shall be required in the course of consultations under this sub-paragraph to indicate in advance the choice or timing of any particular measure which it may ultimately determine to adopt.

(b) The Organization may at any time invite any Member which is applying import restrictions under this Article to enter into such consultations with it, and shall invite any Member substantially intensifying such restrictions to consult within thirty days. A Member thus invited shall participate in the consultations. The Organization may invite any other Member to take part in the consultations. Not later than two years from the day on which this Charter enters into force, the Organization shall review all restrictions existing on that day and still applied under this Article at the time of the review.

(c) Any Member may consult with the Organization with a view to obtaining the prior approval of the Organization for restrictions which the Member proposes, under this Article, to maintain, intensify or institute, or for the maintenance, intensification or institution of restrictions under specified future conditions. As a result of such consultations, the Organization may approve in advance the maintenance, intensification or institution of restrictions by the Member in question insofar as the general extent, degree of intensity and duration of the restrictions are concerned.
To the extent to which such approval has been given, the requirements of sub-paragraph (a) of this paragraph shall be deemed to have been fulfilled, and the action of the Member applying the restrictions shall not be open to challenge under sub-paragraph (d) of this paragraph on the ground that such action is inconsistent with the provisions of sub-paragraphs (a) and (b) of paragraph 3.

(d) Any Member which considers that another Member is applying restrictions under this Article inconsistently with the provisions of paragraphs 3 or 4 of this Article or with those of Article 22 (subject to the provisions of Article 23) may bring the matter to the Organization for discussion; and the Member applying the restrictions shall participate in the discussion. If, on the basis of the case presented by the Member initiating the procedure, it appears to the Organization that the trade of that Member is adversely affected, the Organization shall submit its views to the parties with the aim of achieving a settlement of the matter in question which is satisfactory to the parties and to the Organization. If no such settlement is reached and if the Organization determines that the restrictions are being applied inconsistently with the provisions of paragraphs 3 or 4 of this Article or with those of Article 22 (subject to the provisions of Article 23), the Organization shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified in accordance with the recommendation of the Organization within sixty days, the Organization may release any Member from specified obligations or concessions under or pursuant to this Charter towards the Member applying the restrictions.

(e) In consultations between a Member and the Organization under this paragraph there shall be full and free discussion as to the various causes and the nature of the Member's balance-of-payments difficulties. It is recognized that premature disclosure of the prospective application, withdrawal or modification of any restrictions under this Article might stimulate speculative trade and financial movements which would tend to defeat the purposes of this Article. Accordingly, the Organization shall make provision for the observance of the utmost secrecy in the conduct of any consultation.

6. If there is a persistent and widespread application of import restrictions under this Article, indicating the existence of a general disequilibrium which is restricting international trade, the Organization shall initiate discussions to consider whether other measures might be taken, either by those Members whose balances of payments are under pressure or by those Members
those Members whose balances of payments are tending to be exceptionally favourable, or by any appropriate inter-governmental organization, to remove the underlying causes of the disequilibrium. On the invitation of the Organization, Members shall participate in such discussions.

Article 22

Non-Discriminatory Administration of Quantitative Restrictions

1. No prohibition or restriction shall be applied by any Member on the importation of any product of any other Member country or on the exportation of any product destined for any other Member country, unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted.

2. In applying import restrictions to any product, Members shall aim at a distribution of trade in such product approaching as closely as possible to the shares which the various Member countries might be expected to obtain in the absence of such restrictions, and to this end shall observe the following provisions:

(a) wherever practicable, quotas representing the total amount of permitted imports (whether allocated among supplying countries or not) shall be fixed, and notice given of their amount in accordance with paragraph 3 (b);

(b) in cases in which quotas are not practicable, the restrictions may be applied by means of import licences or permits without a quota;

(c) Members shall not, except for purposes of operating quotas allocated in accordance with sub-paragraph (d) of this paragraph, require that import licences or permits be utilized for the importation of the product concerned from a particular country or source;

(d) in cases in which a quota is allocated among supplying countries, the Member applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other Members having a substantial interest in supplying the product concerned. In cases in which this method is not reasonably practicable, the Member concerned shall allot to Member countries having a substantial interest in supplying the product shares of the total quantity or value of imports of the product, based upon the proportions, supplied by such Member countries during a previous representative period, due account being taken of any
special factors which may have affected or may be affecting the trade in the product. No conditions or formalities shall be imposed which would prevent any Member country from utilizing fully the share of any such total quantity or value which has been allotted to it, subject to importation being made within any prescribed period to which the quota may relate.

3. (a) In the case of import restrictions involving the granting of import licences, the Member applying the restrictions shall provide, upon the request of any Member having an interest in the trade in the product concerned, all relevant information concerning the administration of the restrictions, the import licences granted over a recent period and the distribution of such licences among supplying countries; provided that there shall be no obligation to supply information as to the names of importing or supplying enterprises.

(b) In the case of import restrictions involving the fixing of quotas, the Member applying the restrictions shall give public notice of the total quantity or value of the product or products which will be permitted to be imported during a specified future period and of any change in such quantity or value. Any supplies of the product in question which were on route at the time at which public notice was given shall not be excluded from entry; provided that they may be counted, so far as practicable, against the quantity permitted to be imported in the period in question, and also, where necessary, against the quantities permitted to be imported in the next following period or periods, and provided further that if any Member customarily exempts from such restrictions products entered for consumption or withdrawn from warehouse for consumption during a period of thirty days after the day of such public notice, such practice shall be considered full compliance with this sub-paragraph.

(c) In the case of quotas allocated among supplying countries, the Member applying the restrictions shall promptly inform all other Members having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall give public notice thereof.

(d) If the Organization finds, upon the request of a Member, that the interests of that Member would be seriously prejudiced by giving, in regard to certain products, the public notice required under sub-paragraphs (b) and (c) of this paragraph, by reason of the fact that a large part of its imports of such products is supplied by non-Member countries, the Organization shall release the Member from compliance with the obligations in question to the extent and
extent and for such time as it finds necessary to prevent such prejudice. Any request made by a Member pursuant to this sub-paragraph shall be acted upon promptly by the Organization.

4. With regard to restrictions applied in accordance with the provisions of paragraph 2 (d) of this Article or under the provisions of paragraph 2 (c) of Article 20, 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 applying the restrictions; Provided that such Member shall, upon the request of any other Member having a substantial interest in supplying that product, or upon the request of the Organization, consult promptly with the other Member or the Organization regarding the need for an adjustment of the proportion determined or of the base period selected, or for the re-appraisal of the special factors involved, or for the elimination of conditions, formalities of any other provisions established unilaterally with regard to the allocation of an adequate quota or its unrestricted utilization.

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.
SECTION C - SUBSIDIES

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 reduce, or prevent an increase in, 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 its territory and of the circumstances making the subsidization necessary. In any case in which a Member considers that serious prejudice to its interests 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. No Member shall grant, directly or indirectly, any subsidy on the export 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. 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 in amounts not in excess of those which have accrued, shall not be deemed to be in conflict with the provisions of paragraph 1. The use of the proceeds of such duties or taxes to make payments to domestic producers in general of those products shall be considered as a case under Article 25.

3. Members shall give effect to the provisions of paragraph 1 at the earliest practicable date but not later than two years from the day on which this Charter enters into force. If any Member considers itself unable to do so in respect of any particular product or products, it shall, at least three months before the expiration of such period, give notice in writing to the Organization, requesting a specific extension of the period. Such notice shall be accompanied by a full analysis of the system in question and the circumstances.
circumstances justifying it. The Organization shall then determine whether the extension requested should be made and, if so, on what terms.

4. Notwithstanding the provisions of paragraph 1, any Member may subsidize the exports of any product to the extent and for such time as may be necessary to offset a subsidy granted by a non-Member affecting the Member's exports of the product. However, the Member shall, upon the request of the Organization or of any other Member which considers that its interests are seriously prejudiced by such action, consult with the Organization or with that Member, as appropriate, with a view to reaching a satisfactory adjustment of the matter.

Article 27
Special Treatment of Primary Commodities

1. A system for the stabilization of the domestic price or of the return to domestic producers of a primary commodity, independently of the movements of export prices, which results at times in the sale of the commodity for export at a price lower than the comparable price charged for the like commodity to buyers in the domestic market, shall be considered not to involve a subsidy on export within the meaning of paragraph 1 of Article 26, if the Organization determines that

(a) the system has also resulted, or is so designed as to result, in the sale of the commodity for export at a price higher than the comparable price charged for the like commodity to buyers in the domestic market; and

(b) the system is so operated, or is designed so to operate, either because of the effective regulation of production or otherwise as not to stimulate exports unduly or otherwise seriously prejudice the interests of other Members.

2. Any Member granting a subsidy in respect of a primary commodity shall co-operate at all times in efforts to negotiate agreements, under the procedures set forth in Chapter VI, with regard to that commodity.

3. In any case involving a primary commodity, if a Member considers that its interests would be seriously prejudiced by compliance with the provisions of Article 26, or if a Member considers that its interests are seriously prejudiced by the granting of any form of subsidy, the procedures set forth in Chapter VI may be followed. The Member which considers that its interests are thus seriously prejudiced shall, however, be exempt provisionally from the requirements of paragraphs 1 and 3 of Article 26 in respect of that commodity, but shall be subject to the provisions of Article 26.
4. No Member shall grant a new subsidy or increase an existing subsidy affecting the export of a primary commodity, during a commodity conference called for the purpose of negotiating an inter-governmental control agreement for the commodity concerned unless the Organization concurs, in which case such new or additional subsidy shall be subject to the provisions of Article 28.

5. If the measures provided for in Chapter VI have not succeeded, or do not promise to succeed, within a reasonable period of time, or if the conclusion of a commodity agreement is not an appropriate solution, any Member which considers that its interests are seriously prejudiced shall not be subject to the requirements of paragraphs 1 and 3 of Article 26 in respect of that commodity, but shall be subject to the provisions of Article 28.

Article 28

Undertaking regarding Stimulation of Exports of Primary Commodities

1. Any Member granting any form of subsidy, which operates directly or indirectly to maintain or increase the export of any primary commodity from its territory, shall not apply the subsidy in such a way as to have the effect of maintaining or acquiring for that Member more than an equitable share of world trade in that commodity.

2. As required under the provisions of Article 25, the Member granting such subsidy shall promptly notify the Organization of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected commodity exported from its territory, and of the circumstances making the subsidization necessary. The Member shall promptly consult with any other Member which considers that serious prejudice to its interests is caused or threatened by the subsidization.

3. If, within a reasonable period of time, no agreement is reached in such consultation, the Organization shall determine what constitutes an equitable share of world trade in the commodity concerned and the Member granting the subsidy shall conform to this determination.

4. In making the determination referred to in paragraph 3, the Organization shall take into account any factors which may have affected, or may be affecting world trade in the commodity concerned, and shall have particular regard to:

(a) the Member country's share of world trade in the commodity during a previous representative period;

(b) whether the Member country's share of world trade in the commodity is so small that the effect of the subsidy on such trade is likely /to be of minor
to be of minor significance;

c) the degree of importance of the external trade in the commodity to the economy of the Member country granting, and to the economies of the Member countries materially affected by, the subsidy;

d) the existence of price stabilization systems conforming to the provisions of paragraph 1 of Article 27;

e) the desirability of facilitating the gradual expansion of production for export in those areas able to satisfy world market requirements of the commodity concerned in the most effective and economic manner, and therefore of limiting any subsidies or other measures which make that expansion difficult.
SECTIONS D - STATE TRADING AND RELATED MATTERS

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) 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 Member countries 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)) under its jurisdiction from acting in accordance with the principles of sub-paragraphs (a) and (b).

2. The provisions of paragraph 1 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, each Member shall accord to the trade of the other Member's fair and equitable treatment.

Article 30A

Marketing Organizations

If a Member establishes or maintains a marketing board, commission or similar organization, the Member shall be subject:

(a) with respect to purchases or sales by any such organization, to the provisions of paragraph 1 of Article 30;

(b) with respect to any regulations of any such organization governing the operations of private enterprises, to the other relevant provisions of this 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, the 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 other 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 to domestic users of the monopolized product, or designed to assure exports of the monopolized product in adequate quantities at reasonable prices;

(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 relax any limitation on 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 paragraph 1 (b), the Member establishing, maintaining or authorizing a monopoly shall negotiate:

(a) for the establishment of the maximum import duty that may be applied 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;

any Member entering into negotiations under this sub-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), the Member establishing, maintaining or authorizing 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 import duty negotiated under paragraph 2, or made public or notified /to the
to the Organization under paragraph 3, shall represent the maximum margin by which the price charged by the import monopoly for the imported product (exclusive of internal taxes conforming to the provisions of Article 18, transportation, distribution and other expenses incident to the purchase, sale or further processing, and a reasonable margin of profit) may exceed the landed cost; 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 which is 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 negotiations.

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 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.

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 the liquidation, as far as practicable, in a manner that will avoid serious disturbance to world markets for the commodity concerned.

2. 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. Such Member shall, at the request of any Member which considers itself substantially interested, consult as to the best means of avoiding substantial injury.
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 the consultations, and the Member holding the 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.
SECTION E - GENERAL COMMERCIAL PROVISIONS

Article 32

Freedom of Transit

1. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a Member country, when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the Member country across whose territory the traffic passes. Traffic of this nature is termed in this Article "traffic in transit".

2. There shall be freedom of transit through each Member country, via the routes most convenient for international transit, for traffic in transit to or from other Member countries. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.

3. Any Member may require that traffic in transit through its territory be entered at the proper custom house, but, except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to other Member countries shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges commensurate with administrative expenses entailed by transit or with the cost of services rendered.

4. All charges and regulations imposed by Members on traffic in transit to or from other Member countries shall be reasonable, having regard to the conditions of the traffic.

5. With respect to all charges, regulations and formalities in connection with transit, each Member shall accord to traffic in transit to or from any other Member country treatment no less favourable than the treatment accorded to traffic in transit to or from any third country.

6. The Organization may undertake studies, make recommendations and promote international agreement relating to the simplification of customs regulations concerning traffic in transit, the equitable use of facilities required for such transit and other measures designed to promote the objectives of this Article. Members shall co-operate with each other directly and through the Organization to this end.

7. Each Member shall accord to goods which have been in transit through any other
any other Member country treatment no less favourable than that which would have been accorded to such goods had they been transported from their place of origin to their destination without going through such other Member country. Any Member shall, however, be free to maintain its requirements of direct consignment existing on the date of this Charter, in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty or has relation to the Member's prescribed method of valuation for customs purposes.

8. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).

**Article 33**

**Anti-dumping and Countervailing Duties**

1. The Members recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in a Member country or materially retards the establishment of a domestic industry. For the purposes of this Article, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if the price of the product exported from one country to another:

   (a) is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or,

   (b) in the absence of such domestic price, is less than either

   (i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or

   (ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. In order to offset or prevent dumping, a Member may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of such product. For the purposes of this Article, the margin of dumping is the price difference determined in accordance with the provisions of paragraph 1.
3. No countervailing duty shall be levied on any product of any Member country imported into another Member country in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation, including any special subsidy to the transportation of a particular product. The term "countervailing duty" shall be understood to mean a special duty levied for the purpose of offsetting any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or export of any merchandise.

4. No product of any Member country imported into any other Member country shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes borne by the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such duties or taxes.

5. No product of any Member country imported into any other Member country shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsidization.

6. No Member shall levy any anti-dumping or countervailing duty on the importation of any product of another Member country unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry. The Organization may waive the requirements of this paragraph so as to permit a Member to levy an anti-dumping or countervailing duty on the importation of any product for the purpose of offsetting dumping or subsidization which causes or threatens material injury to an industry in another Member country exporting the product concerned to the importing Member country.

7. A system for the stabilization of the domestic price or of the return to domestic producers of a primary commodity, independently of the movements of export prices, which results at times in the sale of the commodity for export at a price lower than the comparable price charged for the like commodity to buyers in the domestic market, shall be presumed not to result in material injury within the meaning of paragraph 6 if it is determined by consultation among the Members substantially interested in the commodity concerned that:

(a) the system has also resulted in the sale of the commodity for export at a price higher than the comparable price charged for the like commodity to buyers in the domestic market, and

(b) the system is so operated, either because of the effective regulation of production, or otherwise, as not to stimulate

/exports
exports unduly or otherwise seriously prejudice the interests of other Members.

Article 34

Valuation for Customs Purposes

1. The Members shall work toward the standardization, as far as practicable, or definitions of value and procedures for determining the value of products subject to customs duties or other charges or restrictions based upon or regulated in any manner by value. With a view to furthering co-operation to this end, the Organization may study and recommend to Members such bases and methods for determining value for customs purposes as would appear best suited to the needs of commerce and most capable of general adoption.

2. The Members recognize the validity of the general principles of valuation set forth in paragraphs 3, 4 and 5, and they undertake to give effect, at the earliest practicable date, to these principles in respect of all products subject to duties or other charges or restrictions on importation based upon or regulated in any manner by value. Moreover, they shall, upon a request by another Member directly affected, review in the light of these principles the operation of any of their laws or regulations relating to value for customs purposes. The Organization may request from Members reports on steps taken by them in pursuance of the provisions of this Article.

3. (a) The value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.

(b) "Actual value" should be the price at which, at a time and place determined by the legislation of the country of importation, and in the ordinary course of trade, such or like merchandise is sold or offered for sale under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favourable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.

(c) When the actual value is not ascertainable in accordance with sub-paragraph (b), the value for customs purposes should be based on the nearest ascertainable equivalent of such value.

4. The value for customs purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export.
export, from which the imported product has been exempted or has been or will be relieved by means of refund.

5. (a) Except as otherwise provided in this paragraph, where it is necessary for the purposes of paragraph 3 for a Member to convert into its own currency a price expressed in the currency of another country, the conversion rate of exchange to be used shall be based on the par values of the currencies involved, as established pursuant to the Articles of Agreement of the International Monetary Fund or by special exchange agreements entered into pursuant to Article 24 of this Charter.

(b) Where no such par value has been established, the conversion rate shall reflect effectively the current value of such currency in commercial transactions.

(c) The Organization, in agreement with the International Monetary Fund, shall formulate rules governing the conversion by Members of any foreign currency in respect of which multiple rates of exchange are maintained consistently with the Articles of Agreement of the International Monetary Fund. Any Member may apply such rules in respect of such foreign currencies for the purposes of paragraph 3 of this Article as an alternative to the use of par values. Until such rules are adopted by the Organization, any Member may employ, in respect of any such foreign currency, rules of conversion for the purposes of paragraph 3 of this Article which are designed to reflect effectively the value of such foreign currency in commercial transactions.

6. Nothing in this Article shall be construed to require any Member to alter the method of converting currencies for customs purposes, which is applicable in its territory on the date of this Charter, if such alteration would have the effect of increasing generally the amounts of duty payable.

7. The bases and methods for determining the value of products subject to duties or other charges or restrictions based upon or regulated in any manner by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the value for customs purposes.

Article 35

Formalities connected with Importation and Exportation

1. The Members recognize that all fees and charges of whatever character (other than import and export duties and other than taxes within the purview of Article 18) imposed by governmental authorities on or in connection with importation or exportation should be limited in amount to the approximate cost of
cost of services rendered and should represent an indirect protection to
domestic products or a taxation of imports or exports for fiscal purposes.
The Members also recognize the need for reducing the number and diversity of
such fees and charges, for minimizing the incidence and complexity of import
and export formalities, and for decreasing and simplifying import and export
documentation requirements.

2. The Members shall take action in accordance with the principles and
objectives of paragraph 1 at the earliest practicable date. Moreover, they
shall, upon request by another Member directly affected, review the operation
of any of their laws and regulations in the light of these principles. The
Organization may request from Members reports on steps taken by them in
pursuance of the provisions of this paragraph.

3. The provisions of paragraphs 1 and 2 shall extend to fees, charges,
formalities and requirements imposed by governmental authorities in connection
with importation and exportation, including those relating to:

(a) consular transactions, such as those relating to consular invoices
    and certificates;
(b) quantitative restrictions;
(c) licensing;
(d) exchange control;
(e) statistical services;
(f) documents, documentation and certification;
(g) analysis and inspection; and
(h) quarantine, sanitation and fumigation.

4. The Organization may study and recommend to Members specific measures
for the simplification and standardization of customs formalities and techniques
and for the elimination of unnecessary customs requirements, including those
relating to advertising matter and samples for use only in taking orders for
merchandise.

5. No Member shall impose substantial penalties for minor breaches of customs
regulations or procedural requirements. In particular, no penalty in respect
of any omission or mistake in customs documentation which is easily rectifiable
and obviously made without fraudulent intent or gross negligence shall be
greater than necessary to serve merely as a warning.

6. The Members recognize that tariff descriptions based on distinctive
regional or geographical names should not be used in such a manner as to
discriminate against products of Member countries. Accordingly, the Members
shall co-operate with each other directly and through the Organization with
a view to eliminating at the earliest practicable date practices which are
inconsistent with this principle.

Article 36
Article 36
Marks of Origin

1. The Members recognize that, in adopting and implementing laws and regulations relating to marks of origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum.

2. Each Member shall accord to the products of each other Member country treatment with regard to marking requirements no less favourable than the treatment accorded to like products of any third country.

3. Whenever it is administratively practicable to do so, Members should permit required marks of origin to be affixed at the time of importation.

4. The laws and regulations of Members relating to the marking of imported products shall be such as to permit compliance without seriously damaging the products or materially reducing their value or unreasonably increasing their cost.

5. The Members agree to work in co-operation through the organization towards the early elimination of unnecessary marking requirements. The Organization may study and recommend to Members measures directed to this end, including the adoption of schedules of general categories of products, in respect of which marking requirements operate to restrict trade to an extent disproportionate to any proper purpose to be served, and which shall not in any case be required to be marked to indicate their origin.

6. As a general rule no special duty or penalty should be imposed by any Member for failure to comply with marking requirements prior to importation unless corrective marking is unreasonably delayed or deceptive marks have been affixed or the required marking has been intentionally omitted.

7. The Members shall co-operate with each other directly and through the Organization with a view to preventing the use of trade names in such manner as to misrepresent the true origin of a product, to the detriment of the distinctive regional or geographical names of products of a Member country which are protected by the legislation of such country. Each Member shall accord full and sympathetic consideration to such requests or representations as may be made by any other Member regarding the application of the undertaking set forth in the preceding sentence to names of products which have been communicated to it by the other Member. The Organization may recommend
recommend a conference of interested Members on this subject.

**Article 37**

**Publication and Administration of Trade Regulations**

1. Laws, regulations, judicial decisions and administrative rulings of general application made effective by any Member, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them. Agreements affecting international trade policy which are in force between the government or governmental agency of any Member country and the government or governmental agency of any other country shall also be published. Copies of such laws, regulations, decisions, rulings and agreements shall be communicated promptly to the Organization. The provisions of this paragraph shall not require any Member to divulge confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

2. No measure of general application taken by any Member affecting an advance in a rate of duty or other charge on imports under an established and uniform practice or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefor, shall be enforced before such measure has been officially made public.

3. (a) Each Member shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1. Suitable facilities shall be afforded for traders directly affected by any of those matters to consult with the appropriate governmental authorities.

(b) Each Member shall maintain or institute as soon as practicable, judicial arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters. Such tribunals or procedures shall be independent of the agencies entrusted with administrative enforcement and their decisions shall be implemented by, and shall govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction.
within the time prescribed for appeals to be lodged by importers; Provided that the central administration of such agency may take steps to obtain a review of the matter in another proceeding if there is good cause to believe that the decision is inconsistent with established principles of law or the actual facts.

(c) The provisions of sub-paragraph (b) shall not require the elimination or substitution of procedures in force in a Member country on the date of this Charter which in fact provide for an objective and impartial review of administrative action, even though such procedures are not fully or formally independent of the agencies entrusted with administrative enforcement. Any Member employing such procedures shall, upon request, furnish the Organization with full information thereon in order that the Organization may determine whether such procedures conform to the requirements of this sub-paragraph.

Article 38

Information, Statistics and Trade

Terminology

1. The Members shall communicate to the Organization, or to such agency as may be designated for the purpose by the Organization, as promptly and in as much detail as is reasonably practicable:

(a) statistics of their external trade in goods (imports, exports and, where applicable, re-exports, transit and trans-shipment and goods in warehouse or in bond);

(b) statistics of governmental revenue from import and export duties and other taxes on goods moving in international trade and, insofar as readily ascertainable, of subsidy payments affecting such trade.

2. So far as possible, the statistics referred to in paragraph 1 shall be related to tariff classifications and shall be in such form as to reveal the operation of any restrictions on importation or exportation which are based on or regulated in any manner by quantity or value or amounts of exchange made available.

3. The Members shall publish regularly and as promptly as possible the statistics referred to in paragraph 1.

4. The Members shall give careful consideration to any recommendations which the Organization may make to them with a view to improving the statistical information furnished under paragraph 1.

5. The Members shall make available to the Organization, at its request and insofar as is reasonably practicable, such other statistical information as the Organization
as the Organization may deem necessary to enable it to fulfil its functions, provided that such information is not being furnished to other intergovernmental organizations from which the Organization can obtain it.

6. The Organization shall act as a centre for the collection, exchange and publication of statistical information of the kind referred to in paragraph 1. The Organization, in collaboration with the Economic and Social Council of the United Nations, and with any other organization deemed appropriate, may engage in studies with a view to improving the methods of collecting, analyzing and publishing economic statistics and may promote the international comparability of such statistics, including the possible international adoption of standard tariff and commodity classifications.

7. The Organization, in co-operation with the other organizations referred to in paragraph 6, may also study the question of adopting standards, nomenclatures, terms and forms to be used in international trade and in the official documents and statistics of Members relating thereto, and may recommend the general acceptance by Members of such standards, nomenclatures, terms and forms.