I. REPORT OF WORKING PARTY 3 (ARTICLE 18)

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

A. REVISED TEXT OF ARTICLE 18

National Treatment on Internal Taxation and Regulation

1. The Members recognize that internal taxes and charges, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution, 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 be exempt from, or 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 of national origin. Moreover, in cases in which there is no substantial domestic production of like products of national origin, no Member shall apply new or increased internal taxes on the products of other Member countries for the purpose of affording protection to the production of directly competitive or substitutable products. Moreover, no Member shall otherwise apply internal taxes or charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.

3. With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2 but which is specifically authorized under a trade agreement, in force on 10 April 1947, in which the import tariff on the taxed product is bound against increase, the Member imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as the Member can obtain release from its trade agreement obligations in order to permit the increase of such tariff to the extent necessary to compensate for the elimination of the protective element of the tax.
1. The products of any Member country imported into any other Member country shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

2. 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 3 shall not apply to:
   (a) any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;
   (b) any internal quantitative regulation in force in any Member country on 1 July 1939 or on the day on which the Final Act of the United Nations Conference on Trade and Employment is signed, at the option of that Member; Provided that any such regulation which would be in conflict with the provisions of paragraph 3 shall not be modified to the detriment of imports and shall be subject to negotiation for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17 and accordingly shall be treated as a customs duty for the purposes of Article 17.

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

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

** The Norwegian delegation reserved its position on paragraph 7 pending the results of the discussion in Sub-Committee E of Committee III of Sub-Committee A's recommendation to amend paragraph 3 of Article 22.
9. (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, only of subsidies provided for under Article 25 including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products.

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

B. RECOMMENDED CONSEQUENTIAL CHANGES

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

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

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

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

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

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

The United Kingdom delegation reserved its position on paragraph 9 for the time being.
so as to avoid difficulties of interpretation, and (b) to extend the "fair and equitable treatment" rule established in paragraph 2 of Article 30 with respect to imports for governmental purposes excepted from the provisions of paragraph 1 of Article 30 to the laws, regulations and requirements relating to procurement for governmental purposes referred to in paragraph 8 (a) of Article 18, as follows:

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

C. INTERPRETATIVE NOTES

Article 17

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

Article 18

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

Article 18, Paragraph 1

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

* The Norwegian delegation and the United Kingdom delegation each reserved its position for the time being with respect to this interpretative note. The Colombian delegate reserved the right to raise in the Sub-Committee the question of whether this provision should be inserted in the text of the Charter instead of as an Interpretative Note. Existing national
existing national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article 18, are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments concerned. With regard to taxation by local governments which is inconsistent with both the letter and spirit of Article 18, the term "reasonable measures" would permit a Member to eliminate the inconsistent taxation gradually over a transition period if abrupt action would create serious administrative and financial difficulties.

Article 18, Paragraph 2

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

Article 18, Paragraph 5

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

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

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

"The Sub-Committee considered that charges imposed in connection with the international transfer of payments for imports or exports, particularly the charges imposed by countries employing multiple currency practices, where such charges are imposed not inconsistently with the Articles of Agreement of the International
of the International Monetary Fund, would not be covered by Article 18. On the other hand, in the unlikely case of a multiple currency practice which takes the form of an internal tax or charge, such as an excise tax on an imported product not applied on the like domestic product, that practice would be precluded by Article 18. It may be pointed out that the possible existence of charges on the transfer of payments insofar as these are permitted by the International Monetary Fund is clearly recognized by Article 16."

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

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

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

"The delegate for Ireland inquired whether the phrase 'shall not be modified to the detriment of imports' in paragraph 6 would permit the maintenance of an existing regulation in Ireland providing for changes in the amounts or proportions of a product required to be mixed which are the result of changes in crops from year to year. The Sub-Committee considered that since the regulation in question specifically provided for such changes, the changes would not be precluded by paragraph 6."

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

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

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

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

A. REVISED TEXT OF ARTICLE 19

Special Provisions Relating to Cinematograph Films

If any Member establishes or maintains the provisions of Article 18 shall not prevent any Member from establishing or maintaining internal quantitative regulations relating to exposed cinematograph films. Any such regulations shall take the form of screen quotas which shall conform to the following conditions and requirements:

(a) Screen quotas may require the exhibition of cinematograph films of national origin during a specified minimum proportion of the total screen time actually utilized over a specified period of not less than one year in the commercial exhibition of all films of whatever origin, and shall be computed on the basis of screen time per theatre per year or the equivalent thereof.

(b) With the exception of screen time reserved for films of national origin under a screen quota, screen time, including screen time released by administrative action from minimum time reserved for films of national origin, shall not be formally or in effect allocated among sources of supply.

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

(d) Screen quotas shall be subject to negotiation for their limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under and shall accordingly be treated as customs duties for the purposes of Article 17.
B. NOTE TO BE INCLUDED IN THE SUB-COMMITTEE'S REPORT TO COMMITTEE III

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