Article 16

4. The imposition of a margin of tariff preference not in excess of an amount necessary to compensate for the elimination of a margin of preference in an internal tax existing on 10 April 1947 exclusively between two or more of the territories in respect of which a preference is permitted under paragraph 2 of this Article shall not be deemed to be contrary to the provisions of this Article, it being understood that any such margin of preference shall be subject to the provisions of Article 17.
SUB-COMMITTEE A (ARTICLES 16, 17, 18 AND 19) OF THIRD COMMITTEE

Notes on Discussion at Fourth and Fifth Meetings 18 and 19 December 1947

ARTICLE 17 - REDUCTION OF TARIFFS AND ELIMINATION OF PREFERENCES

Agenda Item 1, Initiation of and Participants in Negotiations, (Items 25, 26, 27 and 28 of Revised Annotated Agenda - E/CONF.2/c.3/6).

Substantial agreement was reached provisionally upon the following points:

1. The obligation to negotiate should be mandatory.
2. The obligation to negotiate should be from Member to Member but the Organization (tiff Committee) should be able to require that negotiations be conducted in accordance with procedures established by the Organization.
3. Members should not be precluded from entering into bilateral agreements on their own initiative, but these agreements would not "count" toward fulfilling the requirements of Article 17 until they had been incorporated into the General Agreement by negotiation with the parties to that Agreement. (The right to conclude bilateral agreements is set forth in the note to Article 17. The Committee will need to consider whether this provision should be incorporated in the text or included as a note.)
4. All Members should have a continuing obligation to negotiate until the objectives of Article 17 have been achieved.

For example:

(a) Parties to the General Agreement would have an obligation to negotiate with non-parties upon request, and non-parties would have an obligation to negotiate with parties upon request.

(b) Members, non-parties to the General Agreement, would become parties to the General Agreement upon incorporation of the results of its negotiations in the General Agreement by agreement with the parties thereto.

/It was

1777
It was suggested that wording along the following lines might meet the points raised, with the exception of point 4:

"Each Member shall, upon the request of any other Member or Members, and subject to procedural arrangements established by the Organisation, enter into and carry out with each other Member or Members, negotiations..."

There was some difference of opinion in connection with point 4. The delegate for Colombia, supported by the delegate for Peru, considered

1. that sub-paragraph (c) of paragraph 1 should be amended to take account of concessions under existing bilateral agreements generalized by the application of the most-favoured-nation clauses upon joining the Organisation, and,

2. that paragraph 2 as now drafted might be inadequate to protect the interests of Members, non-parties to the General Agreement.

It was his view that a party to bilateral agreements, upon joining the Organisation, should be able to claim to have fulfilled the obligation to negotiate under Article 17 on the basis of existing concessions for the duration of such bilateral agreements, without making further concessions. He considered that a Member, non-party to the General Agreement, would have no recourse if a Member, party to the General Agreement, refused to negotiate. He assured that such a Member would not be required to grant additional concessions before being entitled to become a party to the General Agreement, paragraph 1 (c) should be amended as suggested above.

The delegate for the United States did not agree with the position that a party to existing bilateral agreements could claim to have negotiated pursuant to Article 17 solely on the basis of existing concessions generalized through the application of the most-favoured-nation clause. In his view, a Member, non-party to the General Agreement, could be deemed to have fulfilled his obligation to negotiate and become entitled to adhere to the General Agreement only by incorporating concessions in the General Agreement itself. Account would, of course, be taken of concessions granted under bilateral agreements if these same concessions were incorporated in the General Agreement.

The delegate for Cuba suggested that Members would be more likely to seek to negotiate, in order to obtain concessions, rather than to seek exemption from the obligation to negotiate. He pointed out that under paragraph 2 a Member not having received satisfaction in negotiations could appeal to the Organisation. If the Member continued to refuse to negotiate, the Organisation could grant a release to the first Member to withhold concessions from the second Member.

In reply to a question raised by the delegate for Turkey regarding points 2 and 3, the delegates for Cuba and the United States pointed out that both Article 17 as now drafted and the suggested wording of paragraph 1 (page 2) contemplated only one negotiating procedure, i.e., the
Organisation would schedule negotiations upon a Member or Members' request. Even if the notes to Article 17 were incorporated in the text to make it clear that bilateral negotiations on Members' initiative were not precluded, the general procedure would still stand. Sub-paragraph (d) of paragraph 1 provided that the results of negotiations would be incorporated into the General Agreement only with the agreement of the parties thereto and it would not be possible merely by bilateral negotiations to become a party to the General Agreement.

It was agreed to proceed at the next meeting to a consideration of Agenda Item 2, Purpose of Negotiations.
SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF THE THIRD COMMITTEE

WORKING PARTY ON ARTICLE 17

Article 17: Suggested Revision of Paragraph 2 and New Paragraph 3
(Submitted by the Delegation of Colombia)

2. If any Member considers that any other Member has failed to fulfill its obligations under paragraph 1 of this Article, such Member may refer the matter to the Organization, which, after investigation, shall make appropriate recommendations to the Members concerned. If the Organization finds that a Member has failed without sufficient justification, having regard to carry to its economic position and the provisions of the Charter as a whole, out negotiations within a reasonable period of time in accordance with the requirements of paragraph 1 of this Article, the Organization may determine that any Member or Members shall, notwithstanding the provisions of Article 16, be entitled to withhold from the trade of the other Member any of the tariff benefits which may have been negotiated pursuant to paragraph 1 of this Article, and embodied in Part 1 of the General Agreement on Tariffs and Trade. If such benefits are in fact withheld, so as to result in the application to the trade of the other Member of tariffs higher than would otherwise have been applicable, such other Member shall then be free, within sixty days after such action is taken, to withdraw from the Organization upon the expiration of sixty days from the date on which written notice of such withdrawal is received by the Organization.

3. In making a decision under paragraph 2 of this Article the Organization shall have regard to the economic and fiscal position of the countries concerned and the provisions of the Charter as a whole, and shall consequently take into account especially the following:

(a) The state of economic development of the countries concerned and the necessity of a country to grant to its industries a reasonable degree of protection by means of custom duties with a view to promoting and diversifying its production.
(b) The relative importance of the custom duties in the national revenue of the country and the possibility in which it may be of reforming its system of taxation.
(c) The reduction in the tariffs that may have automatically taken place on account of devaluation or depreciation of the currency in which duties had been originally fixed.
(a) The consequences which the reciprocal concessions under discussion are likely to have on the economy and future development of each of the countries concerned.

(e) Any concessions which each country is already extending to the other as a consequence of previous agreements other than those contemplated in sub-paragraph (c) of paragraph 1 of this Article.

4. The provisions of this Article shall operate in accordance with the provisions of Article 81.
SUGGESTED ADDITIONS TO RULES FOR NEGOTIATIONS

1. Transmission of list of requests for tariff concessions.
   - Australia (W.9)
   - Colombia (W.P.)
   - Mexico (W.13)
   - U.K. (W.P.)
   - U.S. (W.7)

2. Transmission of list of proposed concessions.
   - Australia (W.9)
   - Colombia (W.P.)
   - Mexico (W.13)
   - U.K. (W.P.)
   - U.S. (W.7)

3. Principal Supplier rule.
   - Australia (W.9)
   - Colombia (W.P.)
   - Mexico (W.13)
   - U.K. (W.P.)
   - U.S. (W.7)

4. Mutual interest in products; principal consumer.
   - Australia (W.9)
   - Colombia (W.P.)
   - Mexico (W.13)
   - U.K. (W.P.)
   - U.S. (W.7)

   - Australia (W.9)
   - Colombia (W.P.)
   - Mexico (W.13)
   - U.K. (W.P.)
   - U.S. (W.7)

6. On any particular product a Member may
   (a) make no concessions
   (b) bind at the present or a higher or lower level
   (c) reduce a margin of preference to a greater or lesser extent
   - Australia (W.9)
   - Colombia (W.P.)
   - Mexico (W.13)
   - U.K. (W.P.)
   - U.S. (W.7)

7. The Member in deciding what action to take in regard to a request on a particular product may have regard to its
   (a) fiscal needs
   (b) plans for economic development
   (c) total extent of concessions being offered and received
   (d) circumstances affecting Members
   (e) provisions of the Charter as a whole
   (f) existing tariff levels
   (g) balance of concessions
   (h) needs of individual countries and individual industries
   - Australia (W.9)
   - Colombia (W.P.)
   - Mexico (W.13)
   - U.K. (W.P.)
   - U.S. (W.7)
8. The Organization in making a determination under present paragraph 2, shall have regard to

(a) economic position of the Member concerned
(b) fiscal requirements of the Member concerned
(c) developmental requirements of the Member concerned
(d) reconstruction requirements of the Member concerned
(e) total extent of concessions offered
(f) all relevant circumstances
(g) provisions of the Charter as a whole
(h) concessions available to non-Members of Tariff Committee by virtue of membership in Organization
(i) need to grant protection
(j) automatic tariff reductions resulting from devaluation or currency depreciation
(k) possible effects of proposed reciprocal concessions on economic and future development of each of the countries concerned.
(l) concessions being extended under previous agreements other than those contemplated in paragraph 1 (c)

9. Three-year moratorium on negotiations to allow for economic stabilization.

10. Exemption on grounds of fundamental disequilibrium in balance of payments.

11. Special consideration for debtor nations.

12. Base year for conversion of specific to ad valorem basis.

13. Revision of tariff agreements.


15. Escape
15. Escape clauses mutually considered necessary.

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

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

(a) Such negotiations shall be conducted on a selective, product-by-product, basis such as will afford an adequate opportunity for taking into account the needs of individual countries and individual industries. Members shall be free not to grant a concession on a particular product and in the granting of concessions on particular products they may either reduce the tariff or bind it at its present or at a higher level.

(b) No Member shall be required to grant unilateral concessions, or to grant concessions to other Members which are not sufficiently counterbalanced by concessions in return. Account shall be taken of the value to any Member of obtaining in its own right concessions which it would otherwise enjoy only by virtue of Article 16.

(c) In the negotiations, increased.

(d) The binding preferences.

Account Article 16.

3. The results of such negotiations shall be incorporated in the General Agreement on Tariffs and Trade, signed at.............. on ................. 1948 by agreement with the parties to that Agreement, and thereupon the parties to such negotiation shall become contracting parties to the General Agreement on Tariffs and Trade if they are not so already.
2. .......if the Organization finds that a Member has failed without sufficient justification, having regard to its economic position and the provisions of the Charter as a whole, having regard to all relevant circumstances, including the developmental and other needs and the fiscal structure of the Member concerned, and to the provisions of the Charter as a whole, to carry out negotiations.

Interpretative Note to sub-paragraph 2.(b)

In the event of the devaluation of a Member’s currency, or of a rise in prices, the effects of such devaluation or rise in prices should be considered during negotiations in order to determine, first, the change in the protective incidence of the specific tariffs, if any, of the Member concerned and, secondly, whether the binding of any specific duties reduced by currency devaluation or by a rise in prices represents in fact a concession equivalent in value to the substantial reduction of high tariffs or the elimination of tariff preferences.
"Article 18 of the Geneva Draft prohibits the imposition of internal taxes of any kind on imported products in excess of those imposed upon similar domestic products. In order to avoid a misinterpretation of this provision in connection with the application of various forms of multiple currency practices, the International Monetary Fund's representative requested the Preparatory Committee to clarify the meaning of this provision. Both the respective Sub-Committee and Commission A included their opinions in their minutes.

The Report of the Sub-Committee (document E/PC/T/174 of 15 August 1947, page 7), reads:

'The representative of the International Monetary Fund inquired whether there is anything in Article 15 which could be construed as preventing a Member from imposing charges in connection with the international transfer of payments for imports or exports where such charges are imposed consistently with the Articles of Agreement of the IMF, having in mind particularly the charges imposed by countries employing multiple currency techniques consistently with the Articles of Agreement of the IMF. The Sub-Committee considered that if such charges are imposed on or in connection with imports or exports as such, or are imposed on the international transfer of payments for imports or exports, they would not be internal charges and, therefore, would not be covered by Article 15; on the other hand, in the unlikely case of a multiple currency technique, which takes the form of an internal tax or charge, such as an excise tax on a particular product, then that technique would be precluded by Article 15. It may be pointed out that the possible existence of charges on the transfer of payments insofar as these are permitted by the IMF is clearly recognized by Article 14.'


(Rapporteur Dr. H. C. Coombs (Australia)):

'And the second point, I think, Mr. Chairman, is on the same page, in the second paragraph: This is referring to charges on imports in connection with a point raised by the International Monetary Fund. The essential part, I think, is the statement that: "The
Sub-Committee considered that if such charges are imposed on or in connection with imports or exports as such, or are imposed on the international transfer of payments for imports or exports, they would not be internal charges and, therefore, would not be covered by Article 15; on the other hand, in the unlikely case of a multiple currency technique, which takes the form of an internal tax or charge, such as an excise tax on a particular product, then that technique would be precluded by Article 15. It may be pointed out that the possible existence of charges on the transfer of payments insofar as these are permitted by the IMF is clearly recognized by Article 14.”

I wish to submit to the consideration of the Sub-Committee to make explicit in its Report to Committee III that it adopted the Geneva interpretation of Article 18 as contained in the above-quoted text. It would be useful to indicate this interpretation also either in the text or in a footnote of the final document of the I.T.O. Conference.”
The Working Party proposes that the following paragraph be included in the Sub-Committee's report to Committee III:

"Consideration was given to the criteria which should be taken into account by the Organization in determining whether a Member had failed to fulfil its obligations under Article 17. The conclusion was reached that it would be impracticable and unwise to attempt to set out in the Charter itself detailed descriptions of all the specific criteria necessary to cover all possible future situations. Accordingly, it was agreed that the Organization should be instructed, broadly, to have regard to 'all relevant circumstances'.

The specific language recommended by the Sub-Committee is 'all relevant circumstances, including the developmental and other needs and the fiscal structure of the Member countries concerned and the provisions of the Charter as a whole.' It was not felt necessary to refer specifically to the balance of reciprocal concessions offered by the countries concerned, and the probable effect or value of these concessions, since it was obvious that these elements would comprise the very foundation of any case before the Organization, which would inevitably take them into account. With regard to the suggestion that language should be included recognizing the need of countries to maintain reasonable tariff protection, it was felt that (a) in general it is implicit in Article 17 that reasonable tariff protection is consistent with the principles of the Charter, since the objectives of the Charter are in terms of the reduction of tariffs and not of their elimination, and (b) the needs of under-developed countries in this respect is recognized in paragraph 1 of Article 13 and would be given further specific recognition by the inclusion of the reference to 'developmental needs' in Article 17.

"It was understood that the term 'other needs' would cover, inter alia, a Member's need for reconstruction."
SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 2 (ARTICLE 17)

The Working Party, not having discussed paragraph 3 of Article 17, recommends that a Joint Working Party of Sub-Committee A of Committee III and of the Sub-Committee of Committee VI on Article 81 be established with the following membership and terms of reference:

Membership

Sub-Committee A of Committee III should be represented by the members of Working Party 2 (Article 17), i.e., Australia, France, Mexico, Peru and the United States. The Chairman of the Sub-Committee on Article 81 should be requested to name five members.

Terms of Reference

To consider, in the light of previous discussion in Sub-Committee A of Committee III and in the Sub-Committee of Committee VI on Article 81, (a) the functions and composition of the Tariff Committee; (b) what body shall be competent to determine whether a Member has failed to fulfill its obligation under Article 17 to enter into and carry out negotiations directed to the substantial reduction of tariffs and other charges and to the elimination of preferences; and (c) if it is agreed that the Tariff Committee shall be the competent body, whether the right of appeal against Tariff Committee decisions shall be specifically provided, e.g., to the Executive Board and/or Conference, under the procedures of Chapter VIII or otherwise, or to a specially constituted body.
ARTICLE 17 - REDUCTION OF TARIFFS AND ELIMINATION OF PREFERENCES

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

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

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

(b) No Member shall be required to grant unilateral concessions, or to grant concessions to other Members which are not sufficiently counter-balanced by concessions in return. Account shall be taken of the value to any Member of obtaining in its own right and by direct obligation the indirect concessions which it would otherwise enjoy only by virtue of Article 16.

(c) In the negotiations relating to any specific product

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

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

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

(iv) no margin of preference shall be increased.
(d) The binding of low tariffs or of tariff-free treatment shall in principle be recognized as a concession equivalent in value to the substantial reduction of high tariffs or the elimination of tariff preferences.

(e) Account shall be taken of any concession which either Member is already extending to the other Member by virtue of previous negotiations regarding tariffs and preferences pursuant to this Article.7

(f) Prior international obligations shall not be permitted to stand in the way of negotiations with respect to preferences, it being understood that agreements which result from such negotiations and which conflict with such obligations shall require the modification or termination of such obligations only (i) with the consent of the parties to such obligations, or, in the absence of such consent, (ii) by modification or termination of such obligations in accordance with their terms.

3. The results of such negotiations shall be incorporated in the General Agreement on Tariffs and Trade, signed at .......... on .... 1948 [by agreement] on terms to be agreed with the parties to that Agreement, and thereupon the parties to such negotiations shall become contracting parties to the General Agreement on Tariffs and Trade if they are not so already.

4. If any Member considers that any other Member has failed to fulfill its obligations under paragraph 1 of this Article, such Member may refer the matter to the Organization, which, after investigation, shall make appropriate recommendations to the Members concerned. If the Organization finds that a Member has failed without sufficient justification, [having regard to its economic position and the provisions of the Charter as a whole,] having regard to all relevant circumstances, including the developmental and other needs and the fiscal structure of the Member countries concerned, and to the provisions of the Charter as a whole, to carry out negotiations within a reasonable period of time in accordance with the requirements of paragraph 1 of this Article, the Organization may determine that any Member or Members shall, notwithstanding the provisions of Article 16, be entitled to withhold from the trade of the other Member any of the tariff benefits which may have been negotiated pursuant to paragraph 1 of this Article, and embodied in Part I of the General Agreement on Tariffs and Trade. If such benefits are in fact withheld, so as to result in the application to the trade of the other Member of tariffs higher than would otherwise have been applicable, such other Member shall then be free, within sixty days after such action is taken, to withdraw from the Organization upon the expiration of sixty days from the date on which written notice of such withdrawal is received by the Organization.
Interpretative Note to Sub-Paragraph 2 (d)

In the event of the devaluation of a Member's currency, or of a rise in prices, the effects of such devaluation or rise in prices would be a matter for consideration during negotiations in order to determine, first, the change in the protective incidence of the specific duties, if any, of the Member concerned and, secondly, whether the binding of such specific duties represents in fact a concession equivalent in value to the substantial reduction of high tariffs or the elimination of tariff preferences.
SUB-COMMITTEE A (ARTICLES 16, 17, 18 AND 19) OF COMMITTEE III

DRAFT REPORT OF WORKING PARTY 2 (ARTICLE 17)

Working Party 2, consisting of the delegates of Australia, France, Mexico, Peru and the United States, having consulted with a number of the other Members of the Sub-Committee, reports as follows:

I. REVISED TEXT OF ARTICLE 17 - REDUCTION OF TARIFFS AND ELIMINATION OF PREFERENCES

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

These negotiations shall proceed in accordance with the following rules:

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

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

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

(c) In the negotiations relating to any specific product

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

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

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

(iv) no margin of preference shall be increased.

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

Account shall be taken of any concession which either Member already extending to the other Member by virtue of previous negotiations regarding tariffs and preferences pursuant to this Article.

(e) Prior international obligations shall not be permitted to stand in the way of negotiations with respect to preferences, it being understood that agreements which result from such negotiations and which conflict with such obligations shall not require the modification or termination of such obligations except (i) with the consent of the parties to such obligations, or, in the absence of such consent, (ii) by modification or termination of such obligations in accordance with their terms.

The results of such negotiations shall be incorporated in the General Agreement on Tariffs and Trade, signed at.............. on..............1947 by agreement with the parties to that Agreement, and thereupon the parties to such negotiations shall become contracting parties to the General Agreement on Tariffs and Trade if they are not so already.

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

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

II. INTERPRETATIVE NOTE TO SUB-PARAGRAPH 2 (d) TO BE INCLUDED IN CHARTER

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

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

"Consideration was given to the criteria which should be taken into account by the Organization in determining whether a Member had failed to fulfill its obligations under Article 17. The conclusion was reached that it would be impracticable and unwise to attempt to set out in the Charter itself detailed
itself detailed descriptions of all the specific criteria necessary to cover all possible future situations. Accordingly, it was agreed that the Organization should be instructed, broadly, to have regard to 'all relevant circumstances'.

"The specific language recommended by the Sub-Committee is 'all relevant circumstances, including the developmental and other needs and the fiscal structure of the Member countries concerned and the provisions of the Charter as a whole.' It was not felt necessary to refer specifically to the balance of reciprocal concessions offered by the countries concerned, and the probable effect or value of these concessions, since it was obvious that these elements would comprise the very foundation of any case before the Organization, which would inevitably take them into account. With regard to the suggestion that language should be included recognizing the need of countries to maintain reasonable tariff protection, it was felt that (a) in general it is implicit in Article 17 that reasonable tariff protection is consistent with the principles of the Charter, and (b) the needs of under-developed countries in this respect is recognized in paragraph 1 of Article 13 and would be given further specific recognition by the inclusion of the reference to 'developmental needs' in Article 17. This obviously means that the Organization appreciating the total value of the concessions which a Member may be willing to grant to another Member is bound to take into account the needs resulting from the different general conditions in which different Members can maintain or develop their industries.

"It was understood that the term 'other needs' would cover, inter alia, a Member's need for reconstruction."

IV. RELATION OF GENERAL AGREEMENT ON TARIFFS AND TRADE TO THE CHARTER

As regards any difficulties which might arise from a possible conflict between the provisions of the Charter and the general provisions of the General Agreement on Tariffs and Trade, the Working Party is of the opinion that the best method of eliminating such difficulties would be for the Governments signing the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment to hold a meeting before the signing of the Final Act of the Havana Conference in order to agree with respect to the supersession of the general provisions of the General Agreement by the corresponding provisions of the Charter. Members of the Conference would then be in a position to know the provisions of the final text of the General Agreement on Tariffs and Trade, referred to in paragraph 3 of the revised text of Article 17, prior to signing the Final Act in Havana. The desirability of amending the unanimity requirement with
requirement with respect to agreement on the terms of accession to the General
agreement might also be considered at such a meeting.

V. JOINT WORKING PARTY OF SUB-COMMITTEE A
AND THE SUB-COMMITTEE ON ARTICLE 81

The Working Party, not having discussed paragraph 3 of Article 17,
resolves that a Joint Working Party of Sub-Committee A of Committee III and
of the Sub-Committee of Committee VI on Article 81 be established with the
following membership and terms of reference:

Membership

Sub-Committee A of Committee III should be represented by the members
of Working Party 2 (Article 17), i.e., Australia, France, Mexico, Peru and
the United States. The Chairman of the Sub-Committee on Article 81 should
be requested to name five members.

Terms of Reference

To consider, in the light of previous discussions in Sub-Committee A
of Committee III and in the Sub-Committee of Committee VI on Article 81,
what organizational machinery would be required to implement the
provisions of Article 17.
The Working Party, consisting of the delegates of Australia, Denmark, Netherlands, New Zealand, United Kingdom, United States and Uruguay, having examined the Danish proposal to amend Annex A, pertaining to paragraph 2 (a) of Article 16, (Item 5, E/CONF.2/C.3/6), recommends amending Annex A and paragraph 5 of Article 23 as follows:

1. Delete paragraph 2 of the note to Annex A. (Internal tax preferences are now dealt with in Article 16.)

2. Amend paragraph 3 of the note to Annex A as follows:

"The preferential arrangements referred to in paragraph 5 (b) of Article 23 are those existing in the United Kingdom on 10 April 1947, under contractual agreements with the Governments of Canada, Australia and New Zealand, in respect of chilled and frozen beef and veal, frozen mutton and lamb, chilled and frozen pork, and bacon and hams. It is the intention, without prejudice to any action taken under sub-paragraph (h) of Part 1 of Article 17, that these arrangements shall be eliminated or replaced by tariff preferences, and that negotiations to this end shall take place as soon as practicable among the countries substantially concerned or involved. Without prejudice to any action taken under sub-paragraph (h) of Part 1 of Article 17, negotiations shall be entered into when practicable among the countries substantially concerned or involved in accordance with the procedure of Article 17 for the elimination of these arrangements or their replacement by tariff preferences. If after such negotiations have taken place a tariff preference is created or increased it shall not be considered to contravene Articles 16 and 17."

3. Amend paragraph 5 of Article 23 as follows:

"5. The provisions of this Section shall not preclude:

(a) restrictions with equivalent effect to exchange restrictions authorized under Section 3 (b) of Article VII of the Articles of Agreement of the International Monetary Fund; or
(b) restrictions under the preferential arrangements provided for in Annex A of this Charter, subject to the conditions set forth therein, pending the outcome of the negotiations referred to therein."

3673
5 February 1948

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

DRAFT REPORTS OF WORKING PARTY 3 (ARTICLE 18)
AND WORKING PARTY 4 (ARTICLE 19)

I. DRAFT REPORT OF WORKING PARTY 3 (ARTICLE 18)

Working Party 3 (Article 18), consisting of the delegates of Colombia, Cuba, France, 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, mixture, processing or use of products, 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.

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,
purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Member shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

6. The provisions of paragraph 5 shall not apply to:

(a) any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;
(b) any other measures of internal quantitative control regulation in force in any Member country on 1 July 1939 or 10 April 1947 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 5 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 5 of Article 22.
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, 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.

9. The Members recognize that internal maximum price control systems, 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 systems 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 and 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.
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 imported 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 reserved its position for the time being with respect to this interpretative note.
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 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 mixing regulations required to enforce standards and even to protect one domestic industry against another, provided such regulations did not have the effect of protecting the domestic as compared to the imported product. 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)."

"In paragraph 5 the words 'internal quantitative regulation relating to the mixture' are intended to cover only the quantitative mixture of products; for example, when an internal regulation has as its sole purpose the safeguarding of the quality of a particular domestic product, it would not come within the scope of Article 18."

"The exception permitting the continuance of existing mixing regulations (paragraph 6) has been redrafted 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
"The delegate for Ireland inquired whether the phrase 'shall not be modified to the detriment of imports' in paragraph 6 would permit changes in the amounts or proportions of a product required to be mixed which are based on changes in crops from year to year. The Sub-Committee considered that if the regulation in effect on the base date specifically provided for such changes, by requiring that a given part of each crop be utilized, 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 that a uniform tax applying 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 provided for two or more rates of tax each applying to a number of products."

II. DRAFT 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
of national origin, shall be allocated formally or in effect be allocated formally or in effect among sources of supply.

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

(d) Screen quotas shall be subject to negotiation 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.
ADDENDUM TO DRAFT REPORT OF
WORKING PARTY 3 (ARTICLE 18) AND WORKING PARTY 4 (ARTICLE 19)

B. NOTE TO BE INCLUDED IN THE SUB-COMMITTEE REPORT

The delegate for Czechoslovakia reaffirmed the views expressed by the head of his delegation in Comm.tee 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.
Memorandum Regarding the Colombian Amendment to Article 18
(Items 49 and 54, Revised Annotated Agenda, (E/CONF.2/C.3/6))
(Submitted by the Delegation of Colombia)

The problem which the Colombian delegation set before the Sub-Committee in relation to the effects of Article 18 on the fiscal system of Colombia, can be summarized as follows:

1. The production of spirits is a monopoly of the department (a political and administrative division). The right to maintain and administer freely this monopoly is guaranteed to the departments by the constitution, and its products represents for them the most important item of their revenues. The Central Government may not intervene in the fixing of prices. The authority to regulate this matter rests with the Assemblies (local legislature bodies).

There are fourteen departments and consequently fourteen different monopolies, each of which produces spirits for the consumption of its respective department. The prices naturally are fixed according to the economic conditions peculiar to the different regions.

On the other hand a national law has authorized the departments to establish a tax on the consumption of imported spirits. This tax constitutes a very important item of revenue for the local governments. In accordance with Article 18 of the Charter, Colombia would be obliged either to eliminate the tax on consumption or to establish a tax on the domestic product. It is obvious that his latter solution could not be applied, because the margin of profit, that is, the difference between the price of sale and the cost of production, is very different in the various departments and generally very great. Moreover as the quality of the domestic products (aguardientes and rums), which are consumed almost exclusively by the working classes, differs greatly from that of the imported products (whiskey, cognac, etc.), the imposition of the same tax would be inappropriate.

We think Article 18 could be amended to include some provisions permitting us to maintain both the monopoly and the tax consumption of imported products as they stand, and in view of the grave political and administrative consequences which would follow the adoption of any other method, the Colombian Government considers that it could not approve the Charter if this question was not satisfactorily arranged.

'It has been
It has been suggested that paragraph 3 of Article 99 offers a solution for this problem but in our case, this is not so. As we have already stated, the tax on the consumption of imported products has been authorized by a national law, and this law would be automatically in opposition to the new law by which we would approve the Charter.

2. The municipal councils have had legal authority to establish taxes on the introduction of merchandises to their own territories but some years ago a national law prohibited any tax on the circulation of national products. Therefore, today there exists a tax that is imposed only on imported products entering the territory of the municipalities. This tax has really a pure fiscal purpose, but, as it covers both merchandises we do not produce and merchandises of which there is some national production, it will fall under the provisions of Article 18.

We would be willing to eliminate this tax, which is not in accordance with the radical transformation we have accomplished in our fiscal system during the last twenty years, but we could not make it suddenly. The tax represents a relatively important revenue for the municipalities and the Central Government would be obliged to provide an alternative source of revenue.

Article 18 in its present draft would have the effect of eliminating this tax automatically for the reasons set out above.

3. The National Government imposes certain taxes on the consumption of imported cigarettes and imported tires, and these are collected together with the customs duties. These taxes are not in accordance with the principles of "National treatment" because they are not levied on the like articles of domestic production. On the other hand, we cannot consolidate these taxes with the customs duties because the tariffs for both tires and cigarettes are bound by our bilateral agreement with the United States. We are faced with practically the same problem as that contemplated in the amendment presented by Venezuela, and it has been suggested that the Charter should authorize the maintenance of this kind of taxes during a reasonable period to permit countries concerned to modify existing bilateral agreements.
SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE III

WORKING PARTY 3 (ARTICLE 18)

(Reference: Revised Annotated Agenda, E/CONF.2/C.3/6)

The following items were referred to Working Party 3 of Sub-Committee A:

1. Items 49, 54 and 62, insofar as related to paragraph 1 (Colombia, Ireland, Uruguay, Argentina, respectively) - to find a solution to the particular problems involved under Article 99 or Article 18 (Memorandum prepared by Colombian delegate, Notes Eighteenth Meeting, 10 January, W.30, and Nineteenth Meeting, 12 January, W.31).

2. Reference to Article II (1) (b) General Agreement which makes a distinction between ordinary customs duties and other duties or charges on importation - to meet Syria's desire to retain existing internal taxes applied by municipal authorities in addition to custom duties on unbound items (Item 50 (Syria) (Lebanon) W.30).

3. Definition of internal taxes for purposes of Article 18 (Reservation and suggestion by Brazilian delegate, W.30).

4. Consultation with countries expressing concern with the problem raised by Venezuela, other than parties to the General Agreement, (i.e., release to convert to a customs duty an internal tax on an item bound under an agreement other than the General Agreement) (Item 42, Notes Twelfth Meeting, 31 December, W.22), to ascertain (a) number of such cases; (b) specific products affected; (c) by what treaties bound (W.30).

5. Re-formulation of second sentence of paragraph 1, while retaining principles thereof (Items 50 and 51, (Syria) (Lebanon) and (China), Notes Nineteenth Meeting, 12 January, W.31).

6. Item 53 (Sweden) - drafting only (Notes Twentieth Meeting, 13 January, W.32).

7. Item 64 (United States) - agreed in principle, referred for re-drafting (Notes Twenty-First Meeting, 14 January, W.33).

8. Item 48 (United Kingdom) - drafting only (W.33).

9. Interpretative Note re multiple currency practices - referred for re-wording (W.33).

/10. Item 58
10. Item 58 (Mexico) and proposed new paragraph 8, Article 32 (Notes Twenty-Second Meeting, 15 January, W.35 and Notes Fifth Meeting, Sub-Committee C, E/CONF.2/C.3/C/W.5).

11. Interpretation of paragraphs 3 and 4, to be included in Sub-Committee's Report, along lines of Report of Geneva Sub-Committee on Articles 14, 15 and 24 (Notes Twenty-Third Meeting, 16 January, W.35).

12. Clarification of language of paragraph 2, particularly the words "formally or in effect" in sub-paragraph 3 (a) and Mexican proposal to add a sentence to sub-paragraph 3 (a) in the light of the final text of Article 20 (W.35).

13. Item 61 (Ceylon) - agreed in principle subject to appropriate re-wording (W.35).

14. Suggestion (Cuba) that sub-paragraph 4 (b) might be amended to make it clear that internal quantitative regulations in particular cases are less restrictive than quantitative restrictions (W.35).

15. Particular problem with which the delegation of Ireland was concerned in submitting Item 62 - whether covered by provisions of sub-paragraph 4 (b) (W.35).

16. Deletion of the dates in sub-paragraph 4 (b) and substitution of language similar to that of Article 14 (Mexico) (Notes Twenty-Fourth Meeting, 19 January, W.38).
1. No Member shall apply internal taxes or other charges of any kind for the purpose or with the effect of affording protection for domestic production in excess of tariffs or other charges on imports which might be subject to negotiations in accordance with Article 17; existing protective internal taxes or other charges shall be subject to negotiations for their reduction or elimination in the manner provided for in respect to tariffs and preferences under Article 17.

2. No Member shall apply laws, regulations or requirements affecting the internal sale, offering for sale, purchases, transportation, distribution or use of imported or domestic products in such a way as to afford protection for domestic production. (This paragraph shall not prevent the application of differential transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.)

3. (In applying the principles of paragraph 2 of this Article to internal quantitative regulations relating to the mixture, processing or use of products in specified amounts or proportions, the Members shall observe the following provisions:

(a) no regulations shall be made which (formally or in effect) require that any specified amount or proportion of the product in respect of which such regulations are applied must be supplied from domestic sources whenever such requirement is affording protection for domestic production;

(b) no Member shall, formally or in effect, restrict the mixing, processing or use of a product of which there is no substantial domestic production with a view to affording protection to the domestic production of a directly competitive (or substitutable) product.)

4. The provisions of paragraphs 2 and 3 of this Article shall not apply to any system of internal protection for domestic production in force in any Member country on 1 July 1939 or (10 April) 21 November 1947 at the option of that Member: Provided that any such (measure) system which would be in conflict with the provisions of paragraphs 2 or 3 of this Article shall not be modified to the detriment of imports and shall be subject to negotiations for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17.
5. The provisions of this Article shall not apply to the procurement by governmental agencies of products purchased for governmental purposes and not for resale or use in the production of goods for sale.

6. The provisions of this Article shall not prevent the payment 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 and subsidies effected through governmental purchases of domestic products.

**ALTERNATIVE B**

1. No Member shall apply internal taxes or other charges of any kind for the purpose or with the effect of affording protection for domestic production in excess of tariffs or other charges on imports which might be subject to negotiations in accordance with Article 17.

2. No Member shall apply laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of imported or domestic products in such a way as to afford protection for domestic production.

3. The provisions of this Article shall not apply to:

   (a) any protective internal taxes or other charges or any other system of internal protection for domestic production in force in any Member country on 1 July 1939 or (10 April) 21 November 1947 at the option of that Member: Provided that any such (measure) system which would be in conflict with the provisions of paragraphs 2 or 3 of this Article shall not be modified to the detriment of imports and shall be subject to negotiations for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17.

   (b) the procurement by governmental agencies of products purchased for governmental purposes and not for resale or use in the production of goods for sale.

4. The provisions of this Article shall not prevent the payment 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 and subsidies effected through governmental purchases of domestic products.

**COMMENTS:**

As was pointed out in the Sub-Committee, Article 18 should be redrafted in order to clarify the meaning and the bearing of its provisions. The Norwegian delegation suggests the two alternatives set forth above. With exception of some corrections mentioned below, none of the two alternative aims at making substantial alterations in the Geneva text of Article 18. They only state the principles of this Article more directly and, it is
suggested, more clearly. Alternative A follows the Geneva text more closely, while Alternative B gives a shorter formulation of the same principles.

Alternative A

Paragraph 1

The purpose of this paragraph is to eliminate protection to domestic production by use of differential internal taxation. However, the Geneva text has no direct reference to this purpose. It expresses the principle indirectly and in a way which involves serious difficulties with respect to the interpretation, especially in regard to the meaning of such words as "like products" and "substitutable products". These expressions open the door for interpretations which would impose limitations on the Members' internal taxation policy far beyond the purpose of the Article. The Norwegian delegation will as an example draw attention to the fact that in many countries it is usual, without any protective purpose, to levy heavier internal taxes on goods of finer quality than on goods of lower quality. Paragraph 1 of Article 18 in its present formulation would bar a Member from pursuing such a policy when the goods of finer quality are imported while the goods of ordinary quality are produced in the country. Goods of ordinary quality might undeniably be classified as "substitutable products".

The suggested new draft aims at avoiding such difficulties by stating the principles of the Article as clearly as possible, thereby establishing a better foundation for its interpretation. There is no question of any substantial alteration of the basic concept of the paragraph.

The last sentence of paragraph 1 is transferred from the Geneva Draft with some formal alterations. However, it ought to be considered whether the text should not be formulated in conformity with the text of paragraph 4, sub-paragraph (b) in the Geneva Draft, as is suggested in Alternative B.

Paragraph 2

The first sentence is in conformity with the alterations made in paragraph 1.

The redrafting of the first sentence makes the second sentence unnecessary. It would be quite sufficient to give an explanation in the report. However, the sentence does not do any harm and might be retained in the text if anyone so prefers.

Paragraph 3

When paragraphs 1 and 2 are redrafted as suggested above, there will be no need for the provisions of paragraph 3 of the Geneva Draft. The rules of paragraph 3 may be deduced from the basic principles of paragraphs 1 and 2 as far as this principle goes. It should therefore also here be sufficient to explain this in the report. If it should be considered preferable to retain the provisions in the text of the Article, it will be necessary to
make some limitations as suggested in the above draft.

In sub-paragraph (a) the words "formally or in effect" should be deleted and the following words added to this sentence: "whenever such requirement is affording protection to domestic production". This to make the provisions of the sub-paragraph consistent with the general purposes of the Article. The point is not whether a certain quantitative regulation formally or in effect require that any specified amount or proportion of the product must be supplied from domestic sources. The point is whether such requirement purposely or in effect is affording protection for the domestic production. If this is not the case, the Article should not apply to a regulation even if it prescribes that a certain per cent of raw materials is supplied from domestic sources.

In sub-paragraph (b) the words "or substitutable" should be deleted. As mentioned above, these words might lead to obligations far outside the scope of this Article.

**Paragraph 4**

It is suggested that all the special provisions relating to cinematograph films should be incorporated in Article 19. Consequently, the provisions in sub-paragraph (a) of paragraph 4 in the Geneva Draft should be transferred to Article 19. Paragraph 4 of the suggested new draft of Article 18 accordingly corresponds to sub-paragraph (b) of the Geneva Draft.

Paragraph 4 (b) in the Geneva text only refers to paragraph 3, not to paragraph 2 of Article 18. There is no reason why existing regulations which are of the character as described in paragraph 2 but not covered by paragraph 3, should not be exempted in the same way as existing internal taxation according to paragraph 1, and quantitative regulations according to paragraph 4. As mentioned above, the exemptions should be formulated in the same way both in regard to internal taxation and in regard to such regulations as are described in paragraphs 2 and 3. This is done in Alternative B.


**Paragraphs 5 and 6**

Paragraphs 5 and 6 correspond to paragraph 5 in the Geneva text. As the two parts of this paragraph deal with quite different things, it is suggested to separate them in two paragraphs.

/Alternative B
Alternative B

The suggested Alternative B is shorter and gives, according to the Norwegian view, a better formulation of the same principles as stated in Alternative A.

Havana, 26 January 1948.
1. The products of any Member country imported into any other Member country shall be exempt from internal taxes and other internal charges of any kind in excess of those applied directly or indirectly to like 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 which are not similarly taxed; existing internal taxes of this kind shall be subject to negotiation for their reduction or elimination in the manner provided for in respect of tariffs and preferences under Article 17.7. Moreover, no Member shall impose a new or increased internal tax on any product of another Member country, of which the importing Member has no substantial domestic production, for the purpose of affording protection to the domestic production of a directly competitive or substitutable product which is not similarly taxed. Existing internal taxes of the kind described in the preceding sentence shall be treated as tariffs for the purposes of Article 17. With respect to any existing internal tax which is inconsistent with the provisions of this paragraph but which is specifically authorized under an inter-governmental 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 to such tax of the provisions of this paragraph until such time as the Member can obtain from the other party to the agreement permission to increase such tariff to the extent necessary to compensate for the elimination of the protective element of the tax.

-----
1. The Members recognize that internal taxes or other charges of any kind shall not be applied for the purpose or with the effect of affording protection for domestic production.

2. The products of any Member country imported into any other Member country shall [be exempt from] not be subjected, directly or indirectly, to any internal taxes [and] or other internal charges of any kind in excess of those applied directly or indirectly to like products of national origin.
The following items were referred to Working Party 3 of Sub-Committee A:

Paragraph 1

1. Items 49, 54, and 65, insofar as related to paragraph 1 (Colombia, Ireland, Uruguay, Argentina, respectively) - to find a solution to the particular problems involved under Article 99 or Article 18 (Memorandum prepared by Colombian delegate, Notes Eighteenth Meeting, 10 January, W.30, page 1, Nineteenth Meeting, 12 January, W.31, pages 1 and 2 and Twentieth Meeting, 13 January, W.32, page 1).

2. Reference to Article II (1) (b) General Agreement which makes a distinction between ordinary customs duties and other duties or charges on importation - to meet Syria's desire to retain existing internal taxes applied by municipal authorities in addition to custom duties on unbound items (Item 50 (Syria) (Lebanon) W.30, page 2).

3. Definition of internal taxes for purposes of Article 18 (Reservation and suggestion by Brazilian delegate, W.30, page 2).

4. Consultation with countries expressing concern with the problem raised by Venezuela, other than parties to the General Agreement, (i.e., release to convert to a customs duty an internal tax on an item bound under an agreement other than the General Agreement) (Item 52, Notes Twelfth Meeting, 31 December, W.22), to ascertain (a) number of such cases; (b) specific products affected; (c) by what treaties bound, (W.30, page 3).

5. Re-formulation of second sentence of paragraph 1, while retaining principles thereof (Items 50 and 51, (Syria and Lebanon), (China), (France), Notes Nineteenth Meeting, 12 January, (W.31, pages 1 and 2)).

6. Item 53 (Sweden) - drafting only (Notes Twentieth Meeting, 13 January, W.32, page 2).

7. Item 74 (United States) - agreed in principle, referred for re-drafting (Notes Twenty-First Meeting, 14 January, W.33, page 1).

8. Item 43 (United Kingdom) - drafting only (W.33, page 3).

9. Interpretative Note re multiple currency practices - referred for
Paragraph 2

10. Item 58 (Mexico) and proposed new paragraph 8, Article 32 (Notes Twenty-Second Meeting, 15 January, W.34, page 4, and Notes Fifth Meeting, Sub-Committee C, E/CONF.2/C.3/C/W.5).

Paragraphs 3 and 4

11. Clarification of language of paragraph 3, particularly the words "formally or in effect" in sub-paragraph 3 (a) (Argentina, Brazil, Cuba, Mexico) (Notes Twenty-Third Meeting, 16 January, W.35, page 3 and Notes Twenty-Fourth Meeting, 22 January, W.38, page 2).

12. Item 61 (Ceylon) - agreed in principle subject to appropriate re-wording (W.35, page 3).

13. Interpretation of paragraphs 3 and 4, to be included in Sub-Committee's Report, along lines of Report of Geneva Sub-Committee on Articles 14, 15 and 24 (W.35, page 2).

14. Proposal to add a sentence to sub-paragraph 3 (a) in the light of the final text of Article 20 (Mexico) (W.35, page 3).

15. Inclusion in Sub-Committee's Report of interpretation of sub-paragraphs 3 (a) and (b) with respect to proposed Cuban mixing regulation (alcohol and gasoline) or amendment re dates of sub-paragraph 4 (b) (Cuba) (W.38, page 2).

16. Suggestion (Cuba) that sub-paragraph 4 (b) might be amended to make it clear that internal quantitative regulations in particular cases are less restrictive than quantitative restrictions (W.35, page 3).

17. Particular problem with which the delegation of Ireland was concerned in submitting Item 62 - whether covered by provisions of sub-paragraph 4 (b) (W.35, page 4).

18. Deletion of the dates in sub-paragraph 4 (b) and substitution of language similar to that of Article 14 (Mexico) - Working Party to endeavour to find a solution (W.38, page 1).

19. Item 65 (b) (Argentina) - Working Party to examine feasibility of proposed substitution of 21 November 1947 for 10 April 1947 in sub-paragraph 4 (b) (W.38, page 3).

20. - Item 67 (Sweden) - accepted in principle, referred for drafting (W.38, page 4).

Paragraph 5

21. Reference to Article 16 in Article 18 to the effect that the provisions of paragraph 5 of Article 18 could in no way be interpreted as limiting the m-f-n obligation under Article 16 (Mexico) - Working Party to determine whether necessary (Notes of Twenty-Fifth Meeting, 20 January, W.39, page 1).

22. Definition
22. Definition of "products purchased for governmental purposes" - paragraph 5 (W.39, page 2).

23. Wording to be suggested by Argentinian and Chinese delegates, other than that proposed in their original amendments (Items 72 and 73), which would meet the points they had in mind without excluding from the provisions of Article 18 purchases made by governments in a state trading capacity (W.39, page 2).

24. Examination of latter part of paragraph 5 in relation to Article 25 (Australia) (Mexican reservation) (W.39, pages 1 and 2).
"The term 'reasonable measures' would not require, for example, the repeal of national legislation authorizing the application by local governments of internal taxes which, although technically departing from the letter of the Charter, are nevertheless consistent with its spirit, in cases where such repeal would work a serious hardship on the local governments concerned."
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 18. The term "reasonable measures" in the last-mentioned paragraph would not require, for example, the repeal of national legislation authorising 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.
SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OR COMMITTEE XIII

WORKING PARTY 3 (ARTICLE 18)

Proposed Redraft of Paragraph 1

1. The Members recognize that internal taxes and other internal charges of any kind, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of imported or domestic products, should not be applied 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 internal charges in a manner contrary to the principles set forth in paragraph 1.

Interpretative Note to Paragraph 2 of Article 18

It is understood that a Member would be able to claim that a tax conforming to the requirements of the first sentence of paragraph 2 was being applied inconsistently with the second sentence only in cases involving competition between the taxed product on the one hand and, on the other hand, a directly competitive or substitutable product which was not similarly taxed.
REDACTED
29 January 1948

SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19) OF COMMITTEE XIII
WORKING PARTY 3 (ARTICLE 18)

Suggested Redraft of Present Paragraph 3

4. 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.

Interpretative Note to Paragraph 4 of Article 18

Regulations conforming to the first sentence of paragraph 4 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. It is understood that a Member applying a regulation may not claim that the regulation is 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.
(a) Any internal tax or other internal charge applied to an imported
product and to the like domestic product which, in the case of the imported
product, is collected at the time of importation shall nevertheless be
regarded as an internal tax or other internal charge [and shall be] subject
to all the requirements of this Article.

(b) Any law, regulation or requirement of the kind referred to in
paragraph 2(a) applied to an imported product and to the like domestic product
which, in the case of the imported product, is [applied] [enforced] at the
time of importation shall nevertheless be regarded as a law,
regulation or requirement of the kind referred to in paragraph 2(a) [and shall be]
subject to all the requirements of this Article.

* Paragraph 2 in Geneva Text; paragraph 5 in proposed new text.
1. The Members recognize that internal taxes and other internal charges of any kind, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of imported or domestic products, should not be applied 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 and 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 internal charges in a manner contrary to the principles set forth in paragraph 1.

3. 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.

4. 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.

3. The provisions of paragraph 2 of this Article shall not apply to
(a) any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;
(b) any other measure of internal quantitative [control] regulations
in force in any Member country on 1 July 1939 (or 10 April 1947 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 [measure] regulation which would be in conflict
with the provisions of paragraph 2 of this Article shall not be
modified to the detriment of imports and shall be [subject to
negotiations for its limitation, liberalization or elimination in the
manner provided for in respect of tariffs and preferences under
Article 17] treated as a tariff for the purposes of Article 17.

4. The provisions of this Article (a) shall not apply to the procurement by
governmental agencies of products purchased for governmental purposes and
not [for resale or use] with a view to commercial resale or with a view to
use in the production of goods for commercial sale, (b) nor shall they prevent
the payment 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 and subsidies effected through governmental
purchases of domestic products.

/INTERPRETATIVE
INTERPRETATIVE NOTES

To 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 national legislation authorising 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.

To Paragraph 2

It is understood that a Member would be able to claim that a tax conforming to the requirements of the first sentence of paragraph 2 was being applied inconsistently with the second sentence only in cases involving competition between the taxed product on the one hand, and on the other hand, a directly competitive or substitutable product which was not similarly taxed.

To Paragraph 4

Regulations conforming to the first sentence of paragraph 4 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. It is understood that a Member applying a regulation may not claim that the regulation is 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.
(a) Notwithstanding that an internal tax or other internal charge is collected in respect of an imported product at the time of importation, it shall be regarded as an internal tax or other internal charge and shall be subject to all the requirements of this Article.

(b) Notwithstanding that a law, regulation or requirement of the kind referred to in paragraph 2 is applied in respect of an imported product at the time of importation, it shall be regarded as a law, regulation or requirement of the kind referred to in paragraph 2 and shall be subject to all the requirements of this Article.

* Paragraph 2 in Geneva Text; paragraph 3 in proposed new text.
5. The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for immediate or ultimate consumption in governmental use and not otherwise for resale or for use in the production of goods for sale.

PROPOSED NEW PARAGRAPH 2 OF ARTICLE 30

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 use in the production of goods for sale. With respect to such imports, and with respect to the laws, regulations and requirements referred to in paragraph 5 of Article 18, the Members shall accord to the trade of the other Members fair and equitable treatment.
1. The provisions of Article 18 shall with the modifications set forth in the following paragraphs of this Article apply to cinematograph films and to the commercial exhibition of such films.

2. The provisions of Article 18 shall not be so construed as to prevent customs duties on imported films to be levied in form of tax on the commercial exhibition of films. Such taxes shall be subject to the provisions of Articles 16 and 17.

3. The provisions of paragraphs 2 and 3 of Article 18 shall not preclude any internal quantitative regulation relating to cinematograph films and meeting the requirements of paragraph 4 of this Article.

4. If any Member establishes ........... (continues as Article 19 now drafted).
1. The Members recognize that internal taxes and other internal charges of any kind, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution, mixture, processing or use of imported or domestic products, should not be applied 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, 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 internal charges 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 to such tax of the provisions of paragraph 2 until such time as the Member can obtain from the other party to the agreement permission to increase such tariff to the extent necessary to compensate for the elimination of the protective element of the tax.

4. The products of any Member country imported into any other Member country shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any
specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Member shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

6. (a) The provisions of paragraph 5 shall not apply to:

(1) any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;
(2) any other measures of internal quantitative control 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 measure shall not be modified to the detriment of imports and shall be subject to negotiations for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17, treated as a tariff for the purposes of Article 17.

(b) With the exception of those provisions of regulations pursuant to sub-paragraph (a) which reserve specified amounts or proportions for domestic products, 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 sources of supply.

7. (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 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 and subsidies affected through governmental purchases of domestic products.

INTERPRETATIVE NOTES

To 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
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.

To 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.

To Paragraph 5

Regulations conforming to 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.
National Treatment on Internal Taxation and Regulation

1. The Members recognize that internal taxes and other internal charges of any kind, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution, mixture, processing or use of imported or domestic products, should not be applied 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 internal charges 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 from the other party to the agreement permission to increase such tariff to the extent necessary to compensate for the elimination of the protective element of the tax.

4. The products of any Member country imported into any other Member country shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified...
amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no Member shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.

6. The provisions of paragraph 5 shall not apply to:
(a) any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;
(b) any other measures of internal quantitative control regulation in force in any Member country on 1 July 1939, 10 April 1947 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 measure regulation which would be in conflict with the provisions of paragraph 5 shall not be modified to the detriment of imports and shall be subject to negotiation 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 tariff 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 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 and subsidies effected through governmental purchases of domestic products.

INTERPRETATIVE NOTES

To 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 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.

To 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.

To Paragraph 5
Regulations conforming to 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.
1. While Article 17 does not specifically provide for negotiations with respect to internal taxes, it is understood that, in the case of an internal tax (other than a general tax uniformly applicable to a considerable number of products) which is imposed by a Member on a product not produced domestically in significant quantities and which is so high as to reduce substantially the consumption of the product, another Member would not be expected to consider as valid or effective a tariff concession on the product concerned in the absence of a concession with respect to the tax.

2. It is understood that an internal tax (other than a general tax uniformly applicable to a considerable number of products) would be treated as a tariff under Article 17 in any case in which a concession with respect to the internal tax on a product is necessary to make a tariff concession on that product valid and effective.
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, importation, 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 imposed under the internal revenue laws of the importing country would not in itself have the effect of giving them the status of internal taxes under the Charter.
Interpretative Note to Article 18
Suggested by the United Kingdom

If any internal tax or other internal charge, or any law, regulation or requirement of the kind referred to in paragraph 4, applying to an imported 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 4, and is accordingly subject to the provisions of this Article.
National Treatment on Internal Taxation and Regulation

1. The Members recognize that internal taxes and other internal charges of any kind, and laws, regulations or requirements affecting the internal sale, offering for sale, purchase, transportation, distribution, mixture, processing or use of imported or domestic products, should not be applied 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 internal charges 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 from the other party to the agreement permission to increase such tariff to the extent necessary to compensate for the elimination of the protective element of the tax.

4. The products of any Member country imported into any other Member country shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

5. No Member shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts.
amounts or proportions which require, 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
(a) any internal quantitative regulation relating to cinematograph films
and meeting the requirements of Article 19;
(b) any measures of internal quantitative control regulation
in force in any Member country on 1 July 1939 or 10 April 1947 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 measure regulation which would be in conflict with the
provisions of paragraph 2 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 tariff 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 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 and subsidies effected through
governmental purchases of domestic products.

The Members recognize that internal maximum price control systems, 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 systems shall take account of the interests
of exporting Member countries with a view to avoiding to the fullest
practicable extent such prejudicial effects.
RECOMMENDED CONSEQUENTIAL CHANGES

Article 16, paragraph 1

"...... and with respect to all matters referred to in paragraphs 1 and 2 and 4 of Article 18. .......

Article 22, paragraph 5

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

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 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 4 of Article 18, the Members shall accord to the trade of the other Members fair and equitable treatment.
INTERPRETATIVE NOTES TO ARTICLE 18

Paragraph 1

If any internal tax or other internal charge, or any law, regulation or requirement of the kind referred to in paragraph 1, applying to an imported product and to the like domestic product is collected or enforced in the case of the imported product 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.

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 national legislation authorizing local governments to impose internal taxes which, although technically inconsistent with the letter of Article 18, are not in fact inconsistent with its spirit, if such repeal would result in a serious financial hardship for the local governments concerned. With regard to taxation by local governments which is inconsistent with both the letter and spirit of Article 18, the term "reasonable measures" would permit a Member to eliminate the inconsistent taxation gradually over a transition period if abrupt action would create serious administrative and financial difficulties.

Paragraph 2

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

Paragraph 5

Regulations conforming to 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.
INTERPRETATIVE NOTE TO 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 tariff under Article 17 in any case in which a concession with respect to the tax is necessary to make a tariff concession on the product valid and effective.
Special Provisions Relating to Cinematograph Films

If any Member establishes or maintains, the provisions of Article 18 do 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 formally or in effect be allocated not be allocated formally or in effect among sources of supply.

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

(d) Screen quotas shall be subject to negotiation for their limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17.