SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

WORKING PARTY ON TECHNICAL ARTICLES

(Chairman: H.E. Erik Colban)

RECORD OF WORK PERFORMED

The Working Party did not discuss Article 15 and the suggested new Article 15A (cf. E/PC/T/WP.1/SR/11 and E/PC/T/78). The present record accordingly covers only Articles 16 - 25 (inclusive) and 37.

The left hand pages show the text of the Articles. Square brackets indicate deletions from, and underlining additions to, the text adopted by the Drafting Committee in New York.

Comments and reservations are set out on the right-hand pages, opposite to the relevant Charter texts.

In the case of the following Articles and paragraphs, the texts set out were not adopted by the Working Party as a whole but by Ad Hoc Sub-Committees the reports of which were referred to the Executive Committee for consideration:

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ARTICLE 16

FREEDOM OF TRANSIT.

1. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a Member when the passage across such territory with or without transhipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey, beginning and terminating beyond the frontier of the Member across whose territory the traffic passes. Traffic of this nature is termed in this Article "traffic in transit". The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods and baggage.

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

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

4. All charges and regulations imposed by Members on traffic in transit to or from other Member countries shall be reasonable, having regard to the conditions of the traffic.
16 : 1 (a) The Delegate for Chile declared that he maintained, for the time being, the view (expressed by the Chilean delegation to the Drafting Committee) that Article 16 should be confined to goods only, in which case the words "and also vessels and other means of transport" in paragraph 1 should be deleted. The Delegate for Canada, associating himself with that for Chile, declared that he might wish to raise this point when this Article was to be discussed.

(b) The Working Party agreed that the wording of paragraph 1 covered transit from one point to another in a given country across the territory of another country.

16 : 2 ..............................................................

16 : 3 ..............................................................

16 : 4 ..............................................................
CHAFTER.

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

6. Each Member shall accord to products which have been in transit through any other Member country treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through such other Member country. Any Member shall, however, be free to maintain its requirements of direct consignment (expédition directe) existing on the day of the signature of this Charter, in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty, or has relation to the country's prescribed method of valuation for duty purposes.
With regard to transport charges, the Working Party understood that the principle of paragraph 5 refers to like products being transported on the same route under like conditions.

The Working Party was in favour of the retention of this paragraph as adopted by the Drafting Committee, subject to a reservation by the French delegate who will raise this matter when Article 14 is discussed.
CHAPTER

ARTICLE 17.

ANTI-DUMPING AND COUNTERVAILING DUTIES.
COMMENTS.

General Comments.

Article 17 is shown opposite according to the Report of an ad hoc sub-committee, consisting of delegates for AUSTRALIA, BELGIUM-LUXEMBOURG, CUBA, FRANCE, INDIA, LEBANON-SYRIA, the NETHERLANDS, the UNITED KINGDOM and the UNITED STATES (Chairman of the first three meetings: M. MASSART; of subsequent meetings: Mr. SHACKLE) also attended by the Delegates for BRAZIL, CANADA, CHINA, CZECHOSLOVAKIA, NEW ZEALAND and the UNION OF SOUTH AFRICA.

(*) The Delegates for AUSTRALIA, LEBANON-SYRIA, NEW ZEALAND and the UNION OF SOUTH AFRICA may wish to reconsider Article 17 in so far as it bears on the question of rates of exchange in the light of what may be agreed under Article 18, paragraph 2(c) and Article 29.

(2) The Delegate for CUBA criticised the way of approach to the problem of dumping by Article 17 which confines itself to restricting the rights of Members affected by dumping, whilst not condemning those practising it. He would have wished to introduce it by an express statement of condemnation.
1. No anti-dumping duty or charge shall be imposed on any product of any Member country imported into any other Member country in excess of an amount equal to the margin of dumping under which such product is being imported. For the purposes of this Article, the margin of dumping shall be understood to mean the amount by which the price of the product exported from one country to another is less than (a) the comparable price, in the ordinary course of commerce, for the like product destined for consumption in the exporting country, or, in the absence of such domestic price, is less than either (b) the highest comparable price at which for the like product sold for export to any third country in the ordinary course of commerce, or (c) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit, with due allowance in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. No countervailing duty shall be imposed on any product of any Member country imported into another Member country in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation, including any special subsidy to the transportation of a particular product. The term "countervailing duty" shall be understood to mean an additional special duty imposed for the purpose of offsetting any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or exportation of any merchandise.
COMMENTS.

17 : 1 (a) The majority of the Sub-Committee is of the opinion that hidden dumping by associated houses (that is, the sale by the importers at a price below that corresponding to the price invoiced by the exporter with which the importer is associated, and also below the price in the exporting country) would constitute a form of price dumping.

(b) The Sub-Committee considers that in accordance with Article 35 the obligation to justify the imposition of anti-dumping and countervailing duties, if challenged by another Member, lies in the first place with the Member applying this measure.

17 : 2 It is the understanding of the Sub-Committee that multiple currency rates may in certain circumstances constitute a subsidy to exports which could be met by countervailing duties under paragraph 2 of this Article.
3. No product of any Member country imported into any other Member country shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes imposed in the country of origin or exportation upon borne by the like product when consumed domestically in the country of origin or exportation, or by reason of the refund of such duties or taxes.

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

5. No Member shall levy any anti-dumping or countervailing duty or charge on the importation of any product of another Member country unless it determines that the effect of the dumping or subsidization, as the case may be, is such as materially to injure or threaten to injure to cause or threaten material injury to an established domestic industry, or is such as to prevent or materially retard the establishment of a domestic industry. The Organization is authorised to waive the requirements of this paragraph so as to permit a Member to levy an anti-dumping duty or countervailing duty on the importation of any product for the purpose of offsetting dumping or subsidization which causes or threatens material injury to an industry in another Member country exporting the product concerned to the importing Member country. It is recognized that the importation of products exported under a stabilization system determined to have conformed to the conditions prescribed in paragraph 3 of Article 30 would not result in material injury under the terms of this paragraph.
(a) The Delegations of Belgium, France, Luxembourg and the Netherlands expressed the fear that abuses might be committed under cover of the provisions of paragraph 5 regarding the threat of injury, of which a State might take advantage on the pretext that it intended to establish some new domestic industry in the more or less distant future. The Committee considered that, if such abuses were committed, the general provisions of the Charter would be adequate to deal with them.

(b) The same delegations maintained that there could, in practice, be no material injury if the price charged by the exporting country was not less than that of the importing country or than the world price.

The Sub-Committee felt, however, that this did not provide a valid test of injury.

(c) In cases of dumping in third markets of a serious character such as might not be adequately covered by the new second sentence of paragraph 5, the matter could, in the view of the Sub-Committee, be taken by an aggrieved Member to the Organization under Article 3b with a view to obtaining an appropriate release from its obligations towards the offending Member.

(d) The reference to paragraph 3 of Article 30 was adopted provisionally pending the final wording of that provision as well as of paragraph 4 of Article 65.
6. Nothing in this Article shall preclude Members, parties to a regulatory commodity agreement conforming to the principles of Chapter VII, from incorporating in such agreement provisions prohibiting, as between themselves, the use of anti-dumping duties in cases in which dumping, within the meaning of paragraph 1 of this Article, may be permitted under the terms of such an agreement.

6. No measures other than anti-dumping and countervailing duties or charges shall be applied by any Member for the purpose of offsetting dumping or subsidization.
COMMENTS

17 : 6 (new) (a) The Sub-Committee did not reach unanimous agreement on the addition of the new paragraph. Its inclusion was supported by twelve delegations (Australia, Belgium, Brazil, Canada, Czechoslovakia, France, Lebanon-Syria, the Netherlands, New Zealand, the Union of South Africa, the United Kingdom and the United States) and opposed by two delegations (China and India). The Delegate for Cuba was not present at this discussion.

(b) It is understood that the obligations set forth in Article 17 could, as in the case of all other obligations under Chapter V, be subject to the provisions of Article 34.

(c) The Delegate for Brazil wished to make it clear that the reservations made by his country in the D.C. Report concerning Article 17 were withdrawn in view of the interpretation contained in the preceding note.
Article 18

Valuation for Customs Purposes.

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

2. The Members recognize the validity of the general principles of tariff valuation set forth in the following subparagraphs, and they undertake to give effect to such principles, in respect of all products subject to duties, charges or restrictions on importation and exportation based upon or regulated in any manner by value, at the earliest practicable date. Moreover, they shall, upon a request by another Member, review the operation of any of their laws or regulations relating to value for duty purposes in the light of these principles. The Organization is authorized to request from Members reports on steps taken by them in pursuance of the provisions of this paragraph.
COMMENTS

Article 18 is shown opposite according to the Report of an ad hoc sub-committee, consisting of delegates for Australia, Canada, China, France, the Netherlands, the Union of South Africa, the United Kingdom, and the United States. (Chairman: Mr. Holloway).

18:1 .................................................................

18:2 The Sub-Committee decided to report that it had considered the desirability of replacing the words "at the earliest practicable date" by a definite date or, alternatively, by a provision for a specified limited period to be fixed later. After considering the difficulties in which the various countries would be placed by a fixed date, it was decided to retain the paragraph as it stands, leaving it to the Organization to draw the attention of Members, if necessary, to the desirability of bringing their legislation into line with the Article as speedily as possible.
CHARTER

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

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

(iii) When the actual value is not ascertainable in accordance with (a) (ii), the value for duty purposes should be based on the nearest ascertainable equivalent of such value.
18: 2(a) The alternatives A, B and C, contained in the Report of the Drafting Committee have been omitted.

The Sub-Committee considered that it would be in conformity with Article 18 to presume that "actual value" may be represented by the invoice price, plus any non-included charges for legitimate costs which are proper elements of "actual value" and plus any abnormal discount or other reduction from the ordinary competitive price.

The Sub-Committee considered that the words "between independent buyer and seller" in (ii) might be deleted on the understanding that the phrase "under fully competitive conditions" covers the same concept.

Further, the Sub-Committee considered that the prescribed standard of "fully competitive conditions" would meet the contention of the South African Delegation that countries should not be required to consider distributors' prices which involve special discounts limited to exclusive agents.
(b) The value for duty purposes of any imported product should not include the amount of any customs duty or internal tax applicable within the country of origin or export, from which the imported product has been or will be relieved by means of refund or made exempt.

(c) In converting the value of any imported product from one currency to another for the purpose of assessing duty, the rate of exchange to be used should be fixed in accordance with prescribed standards to reflect effectively the current value of each currency in commercial transactions.

(i) Except as otherwise provided in sub-paragraph (c), where it is necessary for the purposes of sub-paragraph (a) for a Member to convert into its own currency a price expressed in the currency of another country, the conversion rate of exchange to be used should be based on the par values of the currencies involved as established pursuant to the Articles of Agreement of the International Monetary Fund or by special exchange agreements entered into pursuant to Article 29 of the Charter.

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

(iii) Any Member may establish for any foreign currency in respect of which multiple currency practices are maintained consistently with the Articles of Agreement of the International Monetary Fund, a single rate designed to reflect effectively the current value of such currency in commercial transactions.

(iv) Nothing in sub-paragraph (c) shall be construed to require any Member to alter the method of converting currencies for Customs purposes which is applicable in its territory on the day of the signature of this Charter in such a manner as to increase generally the amounts of duty payable.
18 : 2(b) .................................................................

18 : 2(c) The majority of the Sub-Committee accepted (i) and (ii) but wished to delete (iii).

The Delegate for the United States stated that (i) and (ii) were acceptable only if (iii) were retained.

The Delegate for Canada did not oppose the retention of (iii).

The Delegate for New Zealand wished further to consider the matter.

The Sub-Committee decided that the following sentence should appear as a note in its Report as a comment on (iv): "The appreciation of a currency which is recognised by a change in its established par value shall not be considered a change in the method of converting currencies."
CHARTER

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

18 : 3

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ARTICLE 19

CUSTOMS/FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION

1. The Members recognize that fees and charges, other than duties, imposed by governmental authorities on or in connection with importation or exportation should be limited in amount to the approximate cost of services rendered and should not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes. They also recognize the need for reducing the number and diversity of such fees and charges, for minimizing the incidence and complexity of import and export formalities, and for decreasing and simplifying import and export documentation requirements.
GENERAL COMMENT

Article 19 is shown opposite according to the report (E/PC/T.W/103) of an ad hoc sub-committee, consisting of delegates for Australia, Canada, France, the Netherlands, New Zealand, the Union of South Africa, the United Kingdom, and the United States, (Chairman: Mr. Shackle), attended also by the Observers of the International Monetary Fund and the International Bank for Reconstruction and Development. The sub-committee, originally established to consider the text of paragraph 5 (old paragraph 4), found itself called upon to suggest the following changes of the preceding paragraphs, as provisionally adopted by the Working Party (E/PC/T.W/1/SR.1):

Heading: "Formalities Connected with Importation and Exportation" substituted for "Customs Formalities";

Paragraph 1: The word "subsidiary" deleted (twice) before "fees and charges";

The phrase "and charges imposed" extended to "and charges, other than duties, imposed by governmental authorities";

Paragraph 3: The word "customs" deleted before "laws and regulations";

Paragraph 4: The phrase "collect or otherwise enforce" substituted for "impose";

"customs regulations or procedural requirements" substituted for "customs procedure or regulations";

"shall" (towards the end of the paragraph) substituted for "should".

SPECIFIC COMMENTS

19: 1
2. The Organization is authorized to study and recommend to Members specific measures for the simplification and standardization of customs formalities and techniques and for the elimination of unnecessary customs requirements.

3. Except in cases of serious negligence, greater than nominal penalties over and above the duty properly payable should not be imposed by any Member in connexion with the importation of any product of any other Member country because of errors in documentation which are obviously clerical in origin or with regard to which good faith can be established.

3. Members shall give effect to the principles and objectives of paragraph 1 of this Article at the earliest practicable date. Moreover, they shall, upon request by another Member, review the operation of any of their laws and regulations in the light of these principles. The Organization is authorized to request from Members reports on steps taken by them in pursuance of the provisions of this paragraph.

4. Members shall not collect or otherwise enforce substantial penalties for minor breaches of customs regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in customs documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.
19 : 2

19 : 3 (old) The omitted (old) paragraph 3 is replaced by the new paragraph 4.

19 : 3 (a) The Delegate for China reserved his right to request at the second reading of this paragraph the insertion of the words "and upon due consideration by the Organization of its merits" after "Member" in the fourth line.

(b) The question was raised by the Representative of the International Monetary Fund if there was any provision in Article 19 which could be interpreted as prohibiting a Member from employing multiple currency practices, or equivalent thereof, for balance of payments purposes when the action of such member is taken in accordance with the recommendations or approval of the International Monetary Fund. It was pointed out that while Article 19 does not cover the use of multiple rates of exchange as such, paragraphs 1 and 5 would condemn the use of exchange taxes or fees as a device for implementing multiple currency practices; it was clear, however, that if a Member is using multiple currency exchange taxes for balance of payments reasons with the approval of the Fund, the provisions of paragraph 3 would fully safeguard its position since that paragraph merely requires that the taxes be eliminated at the earliest practicable date.

(c) The Ad Hoc Sub-Committee recommends that an explanation be included in the report of the Preparatory Committee to the effect that sub-paragraph 5(d) is without prejudice to the provisions of the Charter relating to safeguarding balance of payments and to exchange control.
5. The provisions of this Article shall extend to fees, charges, formalities and requirements relating to all customs matters including imposed by governmental authorities in connection with importation and exportation, including those relating to:

(a) Consular transactions, such as consular invoices and certificates;
(b) Quantitative restrictions;
(c) Licensing;
(d) Exchange control;
(e) Statistical services;
(f) Documents, documentation and certification;
(g) Analysis and inspection; and
(h) Quarantine, sanitation and fumigation.
COMMENT

19 : 5

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ARTICLE 20
MARKS OF ORIGIN.

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

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

3. Whenever administratively practicable, Members should permit required marks of origin to be imposed at the time of importation.

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

5. Members agree to work in co-operation through the Organization towards the early elimination of unnecessary requirements as to marks of origin. The Organization is authorized to investigate study and recommend to Members measures directed to this end, including the adoption of schedules of general categories of products in respect of which marking requirements operate to restrict trade in a degree disproportionate to any proper purpose to be served, and which shall not in any case be required to be marked to indicate their origin.
20 : 1. .................................................................................

20 : 2. .................................................................................

20 : 3. The Delegate for the United States maintained provisionally his reservation made in the Drafting Committee in favour of the word "shall" (instead of "should").

20 : 4. .................................................................................

20 : 5. While approving this paragraph with the slight change involved in the substitution of the word "study" for "investigate", the Working Party thought it desirable that the discussion of this paragraph at its meetings, as well as at the Drafting Committee and at the First Session of the Preparatory Committee, should be considered by the Organization when studying the problem of "the early elimination of unnecessary requirements as to marks of origin".
6. As a general rule no special duty or penalty should be imposed by any Member for failure to comply with marking requirements prior to importation unless corrective marking has been unreasonably delayed or deceptive marks have been affixed or the required marking has been intentionally omitted.

7. The interest of Members in protecting the regional and geographical marks of origin of their distinctive products is recognized and shall be given consideration by the Organization which is authorized to recommend a conference of interested Members on the subject.

The Members shall co-operate with each other and through the Organization with a view to preventing the use of trade names in such a manner as to misrepresent the true origin of a product, to the detriment of the distinctive regional or geographical names of products of a Member country, which are protected by the legislation of such country.

Each Member shall accord full and sympathetic consideration to such requests or representations as may be made by any other Member regarding the application of the undertaking set forth in the preceding sentence to names of products which have been communicated to it by the other Member.

The Organization may recommend a conference of interested Members on this subject.
COMMENTS.

20 : 6. The United States Delegate proposed that the word "shall" be substituted for "should" (cf. paragraph 3 above).

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

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

21 : 1. .................................................................

21 : 2. This new paragraph was proposed by an Ad Hoc Sub-Committee composed of delegates for Czechoslovakia, France, the Netherlands, the Union of South Africa, the United Kingdom and the United States. The paragraph was adopted by the Working Party on the understanding that the members of the Sub-Committee might wish to propose alterations in the wording when the Article is discussed in Executive Session.
3. No administrative ... countervailing duties.

2. Each Member shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article. Moreover, Members shall maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose inter alia, of the prompt review and correction of administrative action relating to customs matters. Such tribunals or procedures shall be independent of the agencies entrusted with administrative enforcement and their decision shall be implemented by and shall govern the practice of such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed for appeals to be lodged by importers, provided that the central administration of such agency may take steps to obtain a review of the matter in another proceeding if there is good cause to believe that the decision is inconsistent with established principles of law or the actual facts.

* The text of this paragraph, which the Working Party proposes to delete, is not quoted above in full.
COMMENTS

21:3 The deletion of the old paragraph 3 is recommended by the Working Party.

The text of the new paragraph 3 shown opposite has not been approved by the Working Party but is suggested by an Ad Hoc Sub-Committee composed of Delegates for Canada, the Netherlands, the United Kingdom, and the United States, (c.f. E/PC/T/WP.1/AC/SR/3).
CHARTER.

ARTICLE 22.

INFORMATION, STATISTICS AND TRADE TERMINOLOGY.

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

   (a) Statistics of their external trade in goods (including imports, exports, re-exports, transit and transhipment and, where applicable, goods in warehouse or in bond);

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

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

2. The Members shall publish regularly and as promptly as possible the statistics referred to in paragraph 1 of this Article.

3. The Members shall give careful consideration to any recommendations which the Organization may make to them with a view to improvement of the statistical information furnished under paragraph 1 of this Article.

4. The Members shall make available to the Organization, at its request and in so far as reasonably practicable, such other statistical information as the Organization may deem necessary to enable it to fulfil its functions, provided that such information is not being furnished to other inter-governmental organizations from which the Organization can obtain the required information.
COMMENTS.

22 : 1. The Delegate of France drew attention to the practical difficulties of many States in supplying the information relative to subsidy payments and quantitative restrictions.

22 : 2.

22 : 3.

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

6. The Organization may also, in co-operation with the other organizations referred to in paragraph 5 of this Article, study the question of adopting standards, nomenclatures, terms and forms to be used in international trade and in the official documents and statistics of Members relevant thereto, and may promote the general acceptance by Members of such standards, nomenclatures, terms and forms as may be recommended.
COMMENTS

22 : 5  (a) The Delegate of the United Kingdom proposed that the word "shall" in line 1 be changed to "may".

(b) The Delegate of France wished the record to suggest that the Organization should resume as soon as possible the work begun by the League of Nations on the preparation of a standard customs nomenclature. The Delegate of the Union of South Africa dissented.

(c) The Delegate of the United States expressed the wish that Chapter VIII on Organization should be framed so as to leave the Organization sufficient latitude to call into consultation the experts of various governments when investigating technical problems such as standard classifications.
CHARTER

Article 23.
Boycotts.

No Member shall encourage, support or participate in boycotts or other campaigns which are designed to discourage, directly or indirectly, the consumption within its territory of products of any specific Member country or countries on grounds of origin, or the sale of products for consumption within other Member countries on grounds of destination.
23. The delegates for Lebanon-Syria reserved their position, stating that this Article was not acceptable to them if not amended so as to permit of boycotts protecting a vital interest of a Member (unless it were clearly understood that the provision does not apply to the particular case envisaged by them).
CHARTER

ARTICLE 37.

GENERAL EXCEPTIONS TO CHAPTER V.
General Comments.

37. (a) The Delegations of Belgium, France, the Netherlands, and Luxemburg suggested substitution of the words "Members shall be entitled to take measures" for the clause beginning "nothing in Chapter V shall be construed,...". This change, however, depended on a rearrangement of the order of Sections F - I (Articles 34 - 38) suggested by the same delegations (cf. document E/PC/T/W45). Since this proposal gave rise to questions beyond the terms of reference of the Working Party, the matter was left for consideration by the Executive Committee.

(b) The Delegate for Canada suggested that the following new sub-paragraph be added: "Relating to importation of goods the production of which was prohibited in the country of importation prior to 1 July 1939".

(c) The Delegate for India maintained his suggestion in the Drafting Committee that a Member should be allowed temporarily to discriminate against the trade of another Member when this is the only effective measure open to it to retaliate against discrimination practised by that Member outside the purview of the Organization, pending a settlement of the issue through the United Nations.

(d) The Delegate for the United States suggested that sub-paragraphs (c), (d), (e) and (k) be removed from Article 37 and inserted in a new article elsewhere in the Charter. The Working Party considered such a change beyond its terms of reference but agreed to recommend to the Executive Committee that the proposed transfer of the sub-paragraphs in question be made.
Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in Chapter V shall be construed to prevent the adoption or enforcement by any Member of measures:

(a) Necessary to protect public morals;

(b) /For the purpose of protecting/ Necessary to protect human, animal or plant life or health, /If corresponding domestic safeguards under similar conditions exist in the importing country/ provided that corresponding safeguards are applied in the importing country if similar conditions exist in that country.

(c) Relating to fissible materials;

(d) Relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on for the purpose of supplying a military establishment;

(e) In time of war or other emergency in international relations, relating to the protection of the essential security interests of a Member;
COMMENTS.

Specific Comments:

37:a,b. The Delegate for Norway referred to his country's restriction on importation, production and sale of alcoholic beverages that had as its chief object the promotion of temperance. He re-stated the view put forward by the delegation of his country to the Drafting Committee that the taxation and the price policy of its State liquor and wine monopoly was covered by sub-paragraphs (a) and (b).

37: c The Delegate for the United States mentioned that he understood the term "Fissionable materials" to include source materials.

37: d -

37: e The Chinese Delegate again drew attention to his proposal in the Drafting Committee that permission should be given for measures "temporarily imposed to prevent, arrest or relieve conditions of social disturbance, natural calamity or other national emergencies, provided that such measures are withdrawn as soon as the said conditions cease to exist". (The Report of the Drafting Committee suggests that paragraph 2 (b) of Article 25 covers this point to a certain extent.)
(f) Relating to the importation or exportation of gold or silver;

(g) Necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of Chapter V, such as those relating to customs enforcement, deceptive practices and the protection of patents, trade marks and copyrights;

(h) Relating to the products of prison labour;

(i) Imposed for the protection of national treasures of artistic, historic or archaeological value;

(j) Relating to the conservation of exhaustible natural resources if such measures are taken pursuant to international agreements or are made effective in conjunction with restrictions on domestic production or consumption; or

(k) Undertaken in pursuance of obligations under the United Nations Charter for the maintenance or restoration of international peace and security.
37: f - - - -

37: g - - - -

37: h - - - -

37: i - - - -

37: j (a) The Delegate for India repeated the suggestion made by his Delegation at the First Session that the words following upon "natural resources" should be deleted.

(b) The Delegate for Brazil provisionally suggested that the words "are taken pursuant to international agreements or" be deleted. He would, however, study the matter further.

Note by the Secretariat.

The United Kingdom Delegation has proposed (see E/PC/T/W/137) that a reference to Chapter VII should be inserted in Article 37 ("General Exceptions") in the following form:

"(1) Undertaken in pursuance of obligations under inter-governmental commodity arrangements concluded in accordance with the provisions of Chapter VII"

The Working Party did not consider this suggestion, as the matter was under discussion in Commission B in connection with Chapter VII. Commission B now advises that, while there was general agreement in that Commission with the principle of including in Article 37 some reference to inter-governmental commodity arrangements as a general exception, the question is receiving further consideration with a view to determining whether the exception should be limited to inter-governmental commodity agreements of a regulatory character.