Summary of Points Raised Concerning:

<table>
<thead>
<tr>
<th>Items on Provisional Agenda</th>
<th>Article in U.S. Suggested Charter</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Most-Favoured-Nation Treatment</td>
<td>A:1</td>
</tr>
<tr>
<td>Reduction of Tariffs and Elimination of Preferences</td>
<td>B:1</td>
</tr>
</tbody>
</table>

An attempt has been made to bring together the points connected with the above items raised by the various countries, according to the information available on 27 October. It will be observed that on that date

(a) the discussion of the above items in Committee II was not yet concluded, and

(b) the documents in which countries were to set out their views had not all been received by the Secretariat. For this and other reasons, the summary made may have to be completed or modified.

The numbers of documents quoted have been set out in abbreviated form — thus C.II/PV/3 means E/FC/T/C.II/PV/3 (Verbatim Report of the Third Meeting of Committee II), etc.

The various points recorded are set out separately for each of the following items:

- Article 8:1, first part (i.e. excluding last sentence concerning Governmental contracts for public works);
- Article 8:1, last sentence (Governmental contracts);
- Article 18:1;
Article 18 (Suggested facilities for underdeveloped countries).

Owing to the close relationship between questions connected with most-favoured-nation treatment and elimination of preferences, the points referring to Article 8:1 of the Charter ought to be studied in conjunction with those referring to Article 18:1.
A.1 General Most-Favoured-Nation Treatment

U.S. Suggested Charter, Article 8.

Article 8: first part, (i.e. excluding last sentence concerning Governmental Contracts for Public Works):

Brazil (C II/6; also C II/PV/3, page 58)

Countries economically advanced to grant most-favoured-nation treatment unconditionally, but countries in earlier stages of development only conditionally (that is, against special compensation).

Brazil (C II/6; also C II/PV/3, page 58)

See this document for suggested recording of Article 8:1. When presenting this version in the Committee, Prof. Paranagua stated: "The result of this proposal is the same as the suggested American proposal... What I do not like is the traditional (most-favoured-nation) clause..."

Chile:

Accept 8:1.

Chile (C II/PV/3, page 16)

"We cannot have a multilateral treaty under most-favoured-nation treatment and conditions unless the quantitative restrictions are gone."

Chile and Netherlands:

The points raised by these countries in connection with Governmental contracts (see summary of points with reference to the last sentence of 8:1) appear to affect also the first part of 8:1.

Cuba (C II/PV/3, page 38)

Most-favoured-nation treatment should not be granted a nation producing at cheap prices through exploitation of its workers. Investigation of labour conditions in particular countries to be made by ITO (not ILO).
Article 8:1. first part (continued)

India (C.II/PV/2, page 41, also PV/3, page 51)

"With regard to the question of nondiscrimination, the Indian view to some extent tallies with the American view." Wishes to end discrimination; yet favours regional or preferential agreement between neighbouring countries.

Lebanon (C.II/PV/2, page 44):

Many small nations do not provide a market large enough for domestic industry. Customs unions among small countries to secure such a market should be permitted as desirable.

Lebanon (ditto, page 45):

The Mandatory Commission of the League of Nations allowed preferences between Arab countries.

Netherlands (C.II/PV/3, page 44):

"We cannot solve all these problems with a world charter. . . . There will always be the possibility of open conventions of a smaller type so that certain countries should be able to go somewhat further, but other countries will always be able to enter into that convention."

Netherlands:

See also under "Chile".

Norway (C.II/9):

any obscure points. Cannot accept. (It is not clear whether this refers to the whole of 8:1 or only to the last part concerning contracts for public works.)

U.S.A. (C.II/PV/3, page 7):

The most-favoured-nation treatment in draft charter is similar to, though not identical with, the standard League of Nations draft. Ready to discuss whether the long established and recognized preferences are successfully taken into account.
Article 8:1 last sentence (Governmental Contracts)

**Australia** (C.II/FV/3, page 28, also page 52):

In Australia State Governments have sovereign rights, and some local governing bodies have right to conclude Government contracts. Then there are quasi-Governmental organizations. Referred also to points raised on tied loans and quantitative restriction.

"Could the Drafting Committee make a re-draft which would preserve the general principle enunciated in this paragraph, but which would make it subject to special arrangements which arise out of the other headings or the other principles in the Charter." It might be subject to the trade agreement between two countries, perhaps under control by ITO.

**Canada** (C.II/FV/3, page 27):

Should the Governmental Agencies considered in both Article 8:1 and 9 include Crown companies?

**Canada** (C.II/FV/3, page 14):

Could a revision make this Article read:

"The principle underlying this paragraph shall also extend to Governmental purchases other than for the military establishment." (cf. Article 9).

**Canada** (C.II/FV/3, page 26):

Why confine this provision to public works? Should it be extended to include all procurements by Government Agencies of supplies for public use? (cf. Article 9) If it were to cover as wide a range of goods as are considered in Article 9, the words "by or for the military establishment" in that Article should be changed to "for the military establishment".

**Chile** (C.II/FV/3, page 18):

Question concerning tied loans: if the creditor country has option to deliver the goods (sometimes even to ship the goods under its flag), how are such loans affected by this provision? (Page 18, United States in reply: "This sentence lays down a general principle...Special circumstances of the kind you mentioned would have to be taken into account.")

**China** (C.II/FV/3, page 11):

The provision is unnecessary. Deletion proposed.
Article 8:1, last sentence (continued)

Czechoslovakia (C.II/IV/3, page 29):

Agree with the formula proposed by the United States of America. The provision clearly refers to public works.

India (C.II/IV/2, page 66):

"...there are other commercial services, for instance, rights of business men settled in other countries, which also should come within the scope of this clause."

India (C.II/IV/3, page 21):

"Are defence works or administrative works of a governmental character to be included in the scope of this article?.... I feel it would be safer to delete the last sentence altogether."

Netherlands (C.II/IV/3, page 22-23):

Raised three points concerning public works:

1) Tied loans
2) Shipping of the goods points similar to those raised by Chile on national ships
3) Is the IG,0 granted before the war to nationals within the borders of the kingdom compatible with this article?

Netherlands (C.II/IV/3):

Point similar to that raised by Chile on tied loans. "A country may stipulate that all or a percentage of the goods exported from its territory should be carried in ships under its own flag. In my opinion that is not fair and equitable treatment."

New Zealand (C.II/IV/3, page 29):

When interpreting the words "fair and equitable treatment", can it be assumed that in determining contracts the preferences referred to in paragraph 2 would be taken into consideration? And "such factors as exchange considerations?"
Article 8:1, last sentence (continued)

**Norway (C.II/FV/3, page 29):**

Article 8:1, particularly the last five lines, is not clear and should be amended. Motives behind the paragraph seem uncertain. Underlines objections made by China and the Netherlands.

**United Kingdom (C.II/FV/2, page 68):**

(In replying to India :) The Charter deals with exchange of goods only, and therefore, the question of rights of nationals to conduct business in other countries should not be discussed.

**United Kingdom (C.II/FV/3, page 24):**

1) Does the word "Governmental" refer to central Governments, or also federal, state or even municipal Governments? ("It would be difficult in ensuring effective enforcement if we extend this rule beyond the central Governments.")

2) What kind of goods is covered (Reference made to the sets of rules, dealing with Governmental purchasing and trading, in Articles 9, 26 and 27). Should the present provisions refer only to goods not for re-sale? (No formal proposition.)

3) Military purchases are excepted from this provision (by virtue of article 32). Should we not also make certain exceptions for what one may call administrative purchases.

4) Underlines points connected with tied loans and provisions about the shipment of goods under public contracts raised by other delegations (Chile, Netherlands).

**U.S.A. (C.II/FV/3, page 18):**

"This is a most-favoured-nation clause and it is referring to the treatment of foreign countries." (Absolute preference may be given to nationals of the country offering the contract.)

**U.S.A. (C.II/FV/3, page 29 - 33):**

In reply to Canada: "We would be inclined to agree that the coverage of paragraphs 8 and 9 should be the same ... we would also be prepared to strike out the word 'by and' in 9:1 ..." "As regards Crown companies... we are thinking in this article of purchases for Government use or the use of companies acting as agents of the Government, not for re-sale".
U.S.A. (C.II/PV/3, page 29 - 33) continued:

The sentence deals only with the awarding of contracts - there should be free and equal opportunity to bid.

Impossible to draw up provisions that will cover all cases. Should not like to see the provision deleted.

On a question raised by the Netherlands concerning the connection between this provision and imperial preferences, the delegate for U.S.A. seemed to accept the Chairman's interpretation "that any existing preference in the licence or allocation of public works would be eliminated by Article 8:1, "preferences which were intended through customs duty would stand, but that other preferences would not".
Article 8:2

Australia (C.II/FV/3, page 52 - 53):

The deadline in Article 8:2 should be amended as to read "at the time of the negotiations".

Brazil (C.II/6, see also C.II/FV/3, page 59; cf. also page 30):

Suggests the following addition at the end of the Article:

(c) Restrictions to the equality of treatment already adopted in commercial conventions, which were admitted by reasons of special geographical, political and ethnical conditions.

Canada (C.II/FV/3, page 14):

There is an inference (from the first sentence) that any preference exceeding today what it was on 1 July 1939, is not subject to negotiation, but is eliminated. "I do not think for a moment that that is the intention, but it is definitely a possible deduction."

Chile (C.II/FV/2, page 19; cf. also C.II/FV/3, page 15):

Suggests exception known as the "bordering countries clause", essential for the industrial development of small nations. This clause is inserted in various trade agreements in force between American countries and was favoured by the Pan-American Conference of Montevideo. The addition should read:

"(c) Preference treatment in force between neighbouring countries."

China (C.II/13):

China objects to preferential systems since they tend to limit the validity of most-favoured-nation treatment clause.

However, until all nations are ready to accept this clause without qualification, China reserves her right to adopt regional preference.

Cuba (C.II/FV/3, page 39 - 40):

Preferential regime between United States of America and Cuba cannot be removed at present. Possibly some time in the future.
Article 8:2, continued

France (C.II/PV/3, page 42):
Desires maintenance of certain preferential measures with the French oversea territories in order to assist their development.

France (C.II/PV/3, page 63):
France cannot accept as deadline any date later than July 1939, because since then there were many changes and some tariffs of oversea territories had been suspended. In particular cases other dates may be possible. For the tariff of metropolitan France the date of July 1939 is acceptable.

India (C.II/PV/3, page 1):
The two deadlines are unnecessary. If any date at all should be mentioned, it should be the date when the agreements will come into force. Regional preferential regimes should be allowed to continue and to some extent into existence. They should be based on geographical and economic considerations, and not on political.

Lebanon (C.II/PV/3, page 46):
Preferences with the ultimate aim to customs unions and regional preferences should be legitimate under the Charter.

Netherlands (C.II/PV/3, page 43):
The two deadlines, July 1, 1939, for tariffs and July 1, 1946, for tariff preferences, will create difficulties because of Netherland’s agreements in force with other countries.

New Zealand (C.II/PV/3, page 60):
Deadline of July 1, 1939, impracticable - the preferences should be "related to the time at which the agreements are entered into". General and preferential rates may both have been increased during the war and may be reduced in the same way; the present Article appears to demand a special reduction in the general tariff only.

Norway (C.II/9):
Agrees that elimination of preferences in ordinary customs duties would be consistent with aims of ITO.
United Kingdom (C.II/II; see also C.II/FV/3, page 46):

Line 2 ff. to read: "to require the elimination of preferences in respect of the duties and charges on importation referred to in paragraph 1, accorded within each of the groups of territories listed in Schedules A to H, provided that these preferences are limited -

(a) in the case of the items enumerated in Schedules N to Z, in respect of each of the territories there mentioned, to the margins of preferences there provided for;

(b) in the case of all other items, to the margins of preference provided for in the legislation in force in the territories concerned on the date of signature of this agreement."

Note: One of the Schedules A to H would list the countries of the British Commonwealth as suggested in C/II/II.

United Kingdom (C.II/FV/3, page 46):

The two deadlines, July 1, 1939, and July 1, 1946, are unrealistic and arbitrary. The deadlines would be related to the date of signature of tariff agreements resulting from the future negotiations. Any new increases in preferences would be certainly disregarded in the negotiations.

Neither this Article nor the Charter itself imply any tying of tariffs to any ceiling. "What is suggested here is not in the nature of a tariff truce: it is a proposal to negotiate bindings of tariffs."
B. TARIFFS AND TARIFF PREFERENCES

B.1: Reduction of Tariffs and Elimination of Preferences

U.S. Suggested Charter, Article 18.

**Article 18:1**

**Australia (C.II/PV/2, page 54):**

Australia willing to examine and reduce her trade barriers through general negotiations; in addition willing periodically to consider their reduction by unilateral action.

**Australia (C.II/PV/3, pp. 53–55):**

Australia wishes provisions about reduction of preferential margins more clearly specified than the present Charter provides. It is true that if there is a cut in the general rate, the margin between this rate and the preferential rate will be automatically reduced. But there are other instances to consider.

In the negotiations requests for reduction of duties may come from a "foreign" supplier and from a preferential supplier, and both rates may be reduced. The result may be no cut in the margin.

It must be stated what the position should be in order to satisfy the demand for a cut in the margin.

Under Article 18 preferences with quota limitation as basis should be also negotiable, because these were bartered against concessions and should not be given away without compensation.

If within one preferential area country A gives preferences to country B only, such preference shall be afforded to country C on conclusion of an agreement between country B and C.

**Australia (C.II/PV/3, page 55):**

Countries should not negotiate about reduction of tariffs on a commodity the principal supplier of which is outside the negotiating group.

If internal measures taken by a Government to ameliorate the hardship – not foreseen during the negotiations – resulting from concessions afforded to other countries, such Government should be entitled to seek postponement of introduction of concessions made.

**Brazil (W.16, page 4):**

In negotiation for reduction of trade barriers (tariffs?), allowance shall be made for the degree of economic development (supplementary concessions to under-developed-countries).

The programme of reduction of barriers shall be prepared by the ITO.
Article 18:1, continued

ITO to promote exchange of information and studies concerning the possibility of reducing tariffs gradually and with due regard to employment and development.

Members to undertake to enter into early negotiations about the reduction of fiscal tariffs and prohibition of use of internal taxes on products of other member countries as compensation for tariff reduction.

List of products subject to protective tariffs to be supplied to ITO which shall study possibility of negotiating the reduction of such tariffs.

No provision for reduction of margins of preference.

**China (C.II/FV/3, page 62):**

The reduction of Chinese tariffs must be selective. Duties on capital goods, such as machinery and vehicles, will be reduced or fully abolished, but a reasonable protection must be afforded to goods produced under the industrialization plan (cf. a subsequent page).

**Cuba (C.II/FV/3, page 37):**

Cuba ready to reduce fiscal tariffs but may have to create and modify tariffs protecting infant industries.

**Czechoslovakia (C.II/FV/2, page 27):**

In the tariff negotiations, countries with high protection should grant more reduction than those with low tariffs. There should be provision for revision of negotiated reductions.

**India (C.II/FV/3, page 49):**

The expression "substantial reduction of tariffs" is not clear. Should it be substantial from the point of view of the nation who makes the concession or of that who demands it? When India develops her programme of planned economy tariffs will be used to a minor extent, but at present she cannot be asked for a substantial reduction of her protective duties. A developing country cannot accept a substantial reduction of its tariffs as condition of membership of the ITO.

(C.II/FV/2, page 40, also FV/3, page 50): Suggests ITO be established before tariff negotiation take place, but would be willing to begin with negotiations if it is the general view that this is required. Will then offer whatever concessions are possible.
The Netherlands has always had low fiscal tariff; protection from the 1930's was by means of quantitative restriction; hence cannot lower tariffs much or give much in return for reduction of duties by other countries. Interested in the United States statement that even increase in certain duties would be possible. Further, the contemplated customs union with Belgium (decided upon in 1945) will imply increasing certain tariffs to a point between the rates now in force in Netherlands and Belgium.

With regard to preferences, there is a complication because products from the Congo used to enter Belgium free of duty, while products from the Netherlands Indies did not have free entrance into the Netherlands. After customs union, products from the Netherlands Indies might be admitted free of duty (increasing preference).

Poland (C.II/B):

Certain European countries, previously occupied by the enemy, at present have currencies that are inconvertible and are likely to remain so for a certain period after the beginning of the exchange transactions of the IMF (see Article 20:4 of the IMF Agreement). This transitional period may go beyond the date of the proposed tariff agreements and perhaps beyond the day of entry into force of the agreement. Their tariffs would remain, for some time, suspended or not expressed in a convertible currency. But after having stabilized their currency, these countries will have to revise their tariffs upwards in accordance with the new par value of their currencies. There should be a provision for inclusion:

(a) the right for a signatory of the proposed agreement who avails himself of the exception contained in Article XX Section 4 (a) of the IMF, to introduce or change his tariff after the entry into force of the new agreement;

(b) if necessary, an undertaking concerning his future tariff negotiations corresponding to those proposed in Article 18 of the suggested United States Charter.

United Kingdom (C.II/FV/3, page 45):

The "action" considered in 10:1:a is "agreed action". Prior international commitments would be modified but this does not imply a wholesale abrogation of these commitments, but a "general willingness to consider modifying them". Margins of protection afforded by state trading would be subject to reduction to negotiations. "But preferences afforded in that way would constitute an exception from the rule of equity of treatment by state traders, just as tariff preferences remaining after the negotiations would be an exception from the most-favoured-nation clause of 8".
In the tariff negotiations "as much weight should be given to the binding of low rates as to reduction of high rates".

(Ditto, page 13, in reply to Czechoslovakia :) "There should be opportunity for revision of negotiated tariff reduction, say, after three years. In addition, there probably should be in the agreement provisions 'permitting special consideration prior to that time'".
Article 18:3

Chile (C.II/PV/2, page 19):

Wishes to stipulate exception in the case of "circumstances in which a refusal to reduce tariffs would be considered justified," viz:

(a) when a concession affects or might affect a national industry in its initial stage of development;
(b) when a concession affects or might affect a national industry which is vital to production and employment in a particular region and cannot easily be replaced by another industry;
(c) when home industries are sufficient to supply internal consumption;
(d) when home industries use for the most part domestic raw materials.

India (C.II/PV/3, page 50):

The penal clause is 18:3 makes it difficult for under-developed countries to join the ITC.
Article 16 (Suggested facilities for under-developed countries)

**Australia** (C.II/FV/2, page 53):

Protectionist devices, if for industrial development, are legitimate, but should be applied selectively. Such devices have been used excessively in the past and should then be reduced.

**China** (C.II/13; cf. also C/I/FV/2, page 18):

Suggests provision for a "transitional period of industrial development" during which under-developed countries might "impose or maintain a reasonable measure of protective tariff, to be gradually reduced with the advancement of industrialization". The end of this transitional period should not be prefixed but occur

(a) when 50% of the wage earning population is employed in modern industrial enterprises of production and distribution; or

(b) when 50% of their national income is derived from modern enterprises of industry, trading and finance.

**Cuba** (C.II/FV/2, page 37):

Cuba may have to create or raise tariffs protecting infant industries.

**India** (C.II/FV/2, page 38, also IV/2 pages 48 - 50)

Having adopted a programme of planned economic development, India must retain all necessary instruments of regulation, control and directing of trade.

(ditto page 39)

India cannot be expected to reduce her tariff to such an extent as to injure her industrial and other interests.... India's experts are duty free or subject to low duties in importing countries. India is dependent on import duties for revenue. Industrial development requires tariff protection.

**Lebanon** (C.II/FV/2, page 44):

Not only tariff protection but also tariff preferences may be necessary for development of industry in certain less advanced countries (see also Article 8:1).