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

Draft Charter

The Delegation of the United States of America submit
the following proposals for amendment of Articles 31, 32 and
33.

SECTION E. STATE TRADING

ARTICLE 31: Non-discriminatory administration of Most-
favored-nation treatment by state trading enter-
prises

1. (a) If any Member establishes or maintains a state enterprise,
wherever located, which imports, exports, purchases, sells
or distributes any product, or if any Member grants exclusive
or special privileges, formally or in effect, to any
enterprise to import, export, purchase, sell, distribute
or produce any product, the commerce of other Members
shall be accorded treatment no less favourable than that
accorded to the commerce of any country other than that
in which the enterprise is located in respect of the purchase
or sale by such enterprise of any product. To this end
such enterprise shall, in making its external purchases or
sales of any product, be influenced solely by commercial
considerations, such as price, quality, marketability,
transportation and other terms of purchase or sale, having
due regard to any differential customs treatment maintained
consistently with the other provisions of this Charter. Such
enterprise shall, in purchases or sales affecting international
trade, act in a manner consistent with the principle of
general most-favored-nation treatment which is applied in
Article 14 to governmental measures affecting private trade.

(b) The provisions of subparagraph (a) of this paragraph shall
be understood to require that such enterprises shall make
any purchases or sales affecting international trade solely
in accordance with commercial considerations such as price,
quality, marketability, transportation and other terms of
purchase or sale and, through public offers or bids or other­
wise, shall afford the enterprises of all Members full
opportunity to compete for participation in such purchases
or sales.

COMMENT:
The changes in this paragraph are proposed (1) to simplify
the previous language and to eliminate the possible
inference that most-favored-nation treatment by state
enterprises might require identical prices to buyers and
sellers in different markets; (2) to provide, in the phrase
beginning with "shall afford a necessary implementation of
the obligation to act in accordance with commercial
considerations.

2. The provisions of paragraph 1 of this Article relating to
purchases of imports by state enterprises shall apply to
purchases or imports of products for resale or for use in
the production of goods for sale. With respect to purchases
or imports by state enterprises of products for governmental
use and not neither for resale nor for use in the pro­
duction of goods for sale, Members shall accord to the Commerce
of other Members fair and equitable treatment having full re­
gard to all relevant circumstances.

COMMENT:
These changes are intended to express more simply and
in fewer words the intent of the London draft. Except
for the removal of the brackets from that draft, these
changes do not affect the substance of the paragraph.
3. This Article shall apply to any enterprise, organ or agency in which there is effective control by a Member government Alternative A... the enterprise. Alternative B or over whose trading operations a government is, under the arrangements providing for the special or exclusive privileges granted to the enterprise, legally entitled to exercise effective control.

ARTICLE 32: Expansion of international trade by Members having state monopolies of individual products

1. If any Member other than a Member subject to the provisions of Article 33 establishes, maintains or authorizes, formally or in fact, an effective monopoly of the importation or exportation of any product, such Member shall, upon the request of any other Member or Members having a substantial interest in trade with that Member in the product concerned, enter into and carry out negotiations with such Member or Members in the manner provided for in respect of tariffs under Article 24, with regard to the object of achieving (a) in the case of an export monopoly, arrangements designed to limit or reduce the protection afforded through the operations of the monopoly to domestic users of the monopolized product or to assure exports of the monopolized product in adequate quantities at reasonable prices; or (b) in the case of an import monopoly the maximum margin by which the price for an imported product charged by the monopoly in the home market may exceed the landed cost, before payment of any duty, of such product purchased by the monopoly from suppliers in the territories of Members, after due allowance for internal taxes, transportation, distribution and other expenses.
incident to purchase, sale or further processing and for a reasonable margin of profit. For the purpose of applying this margin regard may be had to average landed costs and selling prices of the monopoly over recent periods. Arrangements designed to limit or reduce the protection afforded through the operation of the monopoly to domestic producers of the product or a competing product, or arrangements designed to increase the total imports of the product. Any arrangement negotiated under this paragraph shall be subject to the provisions of Article 31, and any Member entering into negotiations under this paragraph shall afford to other interested Members an opportunity for consultation with respect to the proposed arrangements.

2. Any Member substantially interested in the exportation of a commodity to a Member maintaining such a monopoly affecting such product may, subject to the terms of paragraph 1 of this Article, request the other Member to negotiate:

(a) the maximum margin by which the price at which the monopoly sells the product concerned exceeds the price paid to sellers of Member countries.

(b) the total quantity of the commodity which the Member maintaining the monopoly shall agree to import from all sources, or

(c) any other arrangement to accomplish the purpose of paragraph 1 of this Article.

Provided that, any such arrangement shall be subject to the provisions of Article 31, and the Member requesting a negotiation under this paragraph shall immediately notify the Organization of the nature of this request.
Any Member newly establishing any import monopoly in respect of any product shall not create a margin as defined in paragraph 1 (b) to establish a degree of protection to its domestic producers greater than that represented by the maximum rate of import duty which may have been negotiated in regard to that product pursuant to Article 24, or otherwise, through the operation of such monopoly, impair the value to other Members of such negotiated concession.

**COMMENT:**

The London draft of paragraphs 1, 2 and 3 of Article 32 established too rigid a formula for the application of the general provision calling for negotiations with Members maintaining state enterprises or monopolies. The proposed changes provide for the negotiation of any arrangement under these circumstances which is consistent with the principles of Articles 31 and 32.

3. Delete

4. Delete

**COMMENT:**

In view of the flexibility now provided in the rest of Article 32, these paragraphs are unnecessary.

**Article 33: Expansion of trade by complete state monopolies of import trade**

(Delete)

**COMMENT:**

In the revised form suggested, the provisions of Article 32 can apply to any state trading country, including the countries contemplated in Article 33, and this Article, therefore, is no longer necessary.