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

Draft Charter

Article 17

Anti-dumping and Countervailing Duties

Amendment proposed by the Delegations of FRANCE, BELGIUM, THE NETHERLANDS and LUXEMBOURG.

Re-word paragraph 5 as follows:

"5. No Member shall impose any anti-dumping or countervailing duty or charge on the importation of any product of other Member Countries unless it is in a position to prove:

a) that it really is a case of dumping or subsidization within the meaning of the present article;

and

b) that the effect of the dumping or subsidization, as the case may be, is such as materially to injure an existing domestic industry. In practice, this condition can only be deemed to be fulfilled when the exporting country's export prices are at least equal to the importing country's prices after deduction of customs duties, or at least equal to world prices".
Reasons

The amendment, which is designed to preclude any form of abuse, has a threefold aim:

A) The onus of proof should be on the state taking measures against dumping or subsidization;

B) Provision should not be made for the possibility of injury – purely hypothetical – at some later date to some industry which the importing state might claim to intend to set up within its territory, in the more or less distant future, but which does not exist at the time such measures are taken.

C) In any event, it is obvious that there could be no question of taking measures of this kind where an exporting country sells at normal prices, that is to say, when it sells at prices which, when customs duty is added, equal or exceed prices in the importing country, or when it sells at world prices or higher.