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

ANNOTATED AGENDA

PREPARED BY THE SECRETARIAT, FOR DISCUSSION OF

CHAPTER V, WITH THE EXCEPTION OF ARTICLES

15 - 23 and 37 OF THE DRAFT CHARTER*

This Agenda should be read in conjunction with the Report of the Drafting Committee (E/PC/T/34), called "D.C. Report" below. It incorporates proposals as reported to the Secretariat by delegations prior to noon May 13 (see E/PC/T/DEL/24 and 31).

*Articles 15 - 23 and 37 are being considered by the Working Party on "Technical" articles; cf. "Annotated Agenda", page 28, and various proposed amendments.
CHAPTER V. GENERAL COMMERCIAL POLICY.

Section A. General Commercial Provisions, Most-Favoured-Nations Treatment.

Article 14 - General Most-Favoured-Nation Treatment.

General Note.

The delegates who maintained their suggestion with regard to the adaptation of preferences within a preferential system, mentioned under General Comments in the D.C. Report (page 10), were those for Australia and India, with the concurrence of the delegate for the Union of South Africa.

Paragraph 1.

No observation.

Paragraph 2.

1. The two reservations mentioned in Specific Comments, in the D.C. Report (page 10) were made by the delegates for China and Chile respectively. That of the delegate for Chile is now superseded by the proposal to add a new paragraph 3 (see below).

2. Sub-paragraph (a) refers to preferences in force (i) between territories which on 1 July 1939 were connected by common sovereignty or relations of protection or suzerainty, and (ii) between territories listed in Annexure A to the Charter. The following lists have been received:

- a list of territories covering the British Commonwealth (D.C. Report page 53).
- a list of territories in the French Union (E/PC/T/W.49).

The former of these lists was supplied as referring to item (ii), and the latter to item (i), of sub-paragraph (a).

Suggested paragraph 3.

The delegations of Chile and Lebanon-Syria propose the following new paragraph 3 (cf. E/PC/T/W.27):

"The provisions of paragraph 1 of the present Article shall not apply to preferences of adjoining countries whose economic development is either inadequate or backward, and which are, or will become, parties to agreements designed to promote or accelerate their economic and industrial development so as to enable their economies to be mutually complementary, and to ensure the success of those industrialization processes which are of particular reciprocal importance to such countries."
Section B. Tariff and Tariff Preferences.

Article 24 - Reduction of Tariffs and Elimination of Preferences.

Paragraph 1 (b).

The four delegates who maintained their views that this paragraph should not operate automatically (D.C. Report, page 18) represented Australia, India, New Zealand and the Union of South Africa.

Paragraph 2.

No observation.

Paragraph 3.

1. The two delegates who suggested the insertion of the words "and particularly with regard to Members' legitimate need for protection" (D.C. Report, page 18-19) represented Brazil and Chile.

2. The delegate who wished to consider the definition of the expression "without sufficient justification" (D.C. Report, page 19) represented Chile.

3. It is suggested that the last sentence of this paragraph is superfluous.

Suggested new paragraph.

The D.C. Report (page 19) quotes a new paragraph suggested by the delegate for the United Kingdom.

Section C. Quantitative Restrictions and Exchange Control.

General Notes to Section C.

1. Study by the International Monetary Fund and the International Bank for Reconstruction and Development.

The following passage is quoted from the Report of the First Session (page 14):

"It is generally felt that it would be of great assistance to the work of the Preparatory Committee if the Fund and the Bank could be invited to study Articles 26, 28 and 29 with a view to putting their considered opinion on these issues before the Second Session of the Preparatory Committee."
In accordance with this suggestion, the Fund and the Bank were invited to make such a study to be considered at the Second Session.

2. Study suggested by the Economic and Employment Commission.

At the 24th meeting of the Drafting Committee (on February 27, 1947), attention was paid to the Report of the Economic and Employment Commission (E 255), particularly with reference to a suggested examination of the multilateral aspects of world trade and the help this examination might afford in applying Articles 26, 27 and 28. The Chairman at the meeting in question "suggested that all members of the Drafting Committee should keep in touch with their Governments regarding the continued work of the Economic and Employment Commission and its sub-committees and instructed the Secretary to follow these developments and to report to the Second Session in Geneva on the developments in this respect" (E/PC/T/W.64/C 6/90, page 3). A document dealing with this matter will be distributed.

Article 25 - General Elimination of Quantitative Restrictions.

Paragraph 2 (e).

1. The countries represented by delegates reserving their position or making suggestions with reference to paragraph 2 (e), as indicated under the letters (b)-(g) in the D.C. Report (page 20) are identified below:

(b) Belgium-Luxemburg (suggesting addition concerning seasonal commodities).

(c) Chile ("This paragraph should not be confined to agricultural and fisheries products").

(d) China (reformulation of 25:2e and reservation on 27:4).

(e) India (addition and deletion of certain words).

Note by the Secretariat: In line 4 of this comment the word "Moreover" should be added before "any restrictions", and in line 5 "2(e)" should be substituted for "2(f)".

(f) Norway ("unable to express an opinion" on reservation at First Session.

(g) United Kingdom (insertion referring to "directly competitive product").

Suggested new Paragraph 2 (g).

1. The Indian Delegation proposes the following new sub-paragraph:
"(g) Prohibition or restriction temporarily applied to exports to particular countries as a safeguard against the effects of inflationary conditions prevailing in those countries."

Cf. also amendment to Article 28, paragraph 1 (b).

2. The delegation of Syria and Lebanon proposes the following new sub-paragraph:

"(g) Import prohibitions or restrictions imposed for the purpose of protecting domestic production".

The following reasons for this proposal are presented:

"The provisions of Article 25 appear to be incompatible with the general purposes of the Charter, and, in particular, with the provisions of Articles 9 and 13, which make plain the importance of economic development and the conditions under which governmental assistance should be extended to such development.

As Syria and Lebanon are among those countries whose resources are still under-developed, they are obliged to resort to certain measures of quantitative restriction in order to protect domestic production or newly established industries."

**Article 26 - Restrictions to Safeguard the Balance of Payments.**

**General Note.**

The Czechoslovak delegation has announced that it may propose amendments to this Article.

**Paragraph 1.**

No observation.

**Paragraph 2 (a).**

The two delegates expressing a preference for the wording of the First Session (cf. D.C. Report, pages 20-21) represented Chile and Czechoslovakia.

**Paragraph 3 (c).**

1. The observation on the applicability of sub-paragraph (a) (D.C. Report, page 21) was made by the delegate for Australia.

**Paragraph 3 (d).**

2. The addition mentioned in the D.C. Report (page 22) under item (c) was proposed by the delegate of Belgium and seconded by the delegates of Canada and the United States.

3. The suggestion mentioned in the D.C. Report (page 22) under item (d) was made by the delegate of the United States.

**Paragraph 4.**

1. The four delegates who felt that the text should be clarified (D.C. Report, page 22) represented Brazil, Chile, Czechoslovakia and France.

2. The first sentence may be redrafted as follows: "In giving ... Article, a Member may select imports for restriction so as to give priority to imports of products essential to its domestic ..."

**Paragraphs 5 - 7.** No observation.
Suggested new Article.

The Indian Delegation proposes the insertion of the following new article after Article 26:

"26A. Quantitative Restrictions for Protective Purposes

1. Members agree that they will not impose new or intensify existing quantitative restrictions on imports for protective purposes except when such restrictions are no more restrictive in their effect than other forms of protection permissible under this Charter. Provided that no such restrictions shall, except in accordance with the provisions of paragraph 2 of Article 13, be applied to any product in respect of which the importing Member country has assumed an obligation through negotiations with any other Member or Members pursuant to Chapter V.

2. Any Member, which considers that any other Member is applying import restrictions under paragraph 1 in a manner inconsistent with the terms of that paragraph, may bring the matter for discussion to the Organization. The Member imposing restrictions shall then participate in the discussions of the reasons of its action. The Organization shall, if it is satisfied that there is prima facie case that the complaining Members' interests are adversely affected, consider the complaint. It may then recommend the withdrawal or modification of restrictions which it determines are being applied in a manner inconsistent with the terms of paragraph 1. If restrictions are not withdrawn or modified in accordance with the recommendations of the Organization within sixty days, such other Members shall be released from such obligations incurred under this Charter towards the Member applying the restrictions as the Organization may specify."

(Note: This amendment supersedes the amendment to Article 13 proposed in New York by the Indian Delegation of D.C. Report page 8.)

Article 27 - Non-discriminatory administration of quantitative restrictions.

General note:

The Czechoslovak Delegation has announced that it may propose amendments to this Article.

Paragraph 1.

No observation.
Paragraph 2.

It may be considered whether the words "may seek" in the second sentence should not read "shall seek", and the word "however" be added at the commencement of the third sentence.

Paragraph 3.

No observation.

Paragraph 4.

The reservation (D.C. Report, page 24) was made by the delegate of China.

Paragraph 5.

No observation.

Article 25 - Exceptions to the Rule of Non-discrimination.

General note.

The Czechoslovak Delegation has announced that it may propose amendments to this Article.

Paragraph 1 (b).

The Indian Delegation proposes the following change (in connection with a suggested addition of a new paragraph 2(g) of Article 25):

for "paragraphs 2(a) (i) or 2(d) of Article 25", read "paragraphs 2(a) (i), 2(d) or 2(g) of Article 25".

Paragraph 2.

It appears that this paragraph, which refers to remedial action in the case of breaches of both Article 27 and 28, might with advantage be given as a special Article, re-drafted as follows:

Article 29 A

Remedial Action in the Event of Breaches of Article 27 or 28.

1. If the Organization finds, after . . . Fund, that import restrictions or exchange restrictions . . . provided under Article 28, or in a manner . . . shall within sixty days cease the discriminatory treatment or modify it as specified by the Organization.
2. A Member may, if it so desires, consult to obtain its prior approval for discriminatory treatment. If approval is given, the discriminatory treatment shall not be open to challenge under this Article.

Paragraph 3.

The countries represented by the delegates objecting to the words "which restricts the expansion of world trade" (D.C. Report, page 24) were not identified in the original report of the Drafting Committee.

Article 29 - Exchange Arrangements.

No observation.

Article 29 A - Suggested New Article.

The proposal to insert a new article after Article 29 (cf. D.C. Report, page 25) was made by the delegate for China.

SECTION D. - SUBSIDIES.

Article 30 - General Undertaking regarding Subsidies - Elimination of Export Subsidies - Exceptions.

Paragraph 1.

No observation.

Paragraph 2.

1. The delegates mentioned under (c) and (d) of the comments (cf. D.C. Report, page 26) represented China and Chile respectively.

2. It is suggested that the last sentence of sub-paragraph 2(b) be amended to read:

"The Organization shall then determine . . . ."

Paragraph 3.

The delegate mentioned in the D.C. Report (page 26) as having at the First Session raised the question of the "domestic price" represented New Zealand.
Paragraph 4.

Sub-paragraph (b). The two delegates who reserved their position on this sub-paragraph (of D.C. Report, page 27) represented Canada and New Zealand.

SECTION E. - STATE TRADING.

Article 31 - Non-discriminatory administration of state-trading enterprises.

General note.

The Czechoslovak Delegation has announced that it may propose amendments to this Article.

Paragraph 1.

The reservation referred to in the D.C. Report under (b) was made by the delegate for Czechoslovakia who objected to the inclusion of the words "distribute or produce" in the first sentence.

Paragraph 2.

The three delegates reserving their position against the insertion of the words "or for use in the production of goods for sale" represented Chile, Czechoslovakia and New Zealand.

Paragraphs 1 and 2.

Attention is drawn to the use of the word "commerce" (three times). In other articles of the Charter (e.g. Nos. 1, 32, 34, 39, 48, 49, 53 and 61) the word "trade" is used.

Paragraph 3.

The reservations as to the two alternatives in the wording of this paragraph were made by the delegates for Chile, Czechoslovakia and New Zealand. The last-mentioned two delegates declared their preference for Alternative A (if they would have to choose between A and B).

Article 32 - Expansion of Trade by State Monopolies of Individual Products.

General note.

The Czechoslovak Delegation has announced that it may propose amendments to this Article.
Paragraphs 1 and 2.

No observation.

Paragraph 3.

The words "from Members" are placed in square brackets for consideration at the Second Session (D.C. Report, pages 28-29).

Article 33 - Expansion of Trade by complete State Monopolies of Import Trade.

The Drafting Committee did not discuss this Article which the First Session had left for consideration at a later stage.

SECTION F. EMERGENCY PROVISIONS - CONSULTATION.

Article 34 - Emergency Action on Imports of Particular Products.

Paragraph 1.

The insertion of the words "or remove" in the last line of this paragraph, after the word "prevent", may be considered.

Paragraph 2.

1. The three delegates who maintained their views that action should not be permitted without prior consultation represented Canada, Chile and Cuba (D.C. Report, page 29).

2. The delegate for Canada also maintained that if action without prior consultation was permissible, immediate counter-action should also be permitted (D.C. Report, pages 29-30).

Paragraph 3.

No observation.

Article 35 - Consultation - Nullification or Impairment.

Paragraph 1.

1. The delegate reserving his position temporarily regarding the words "anti-dumping and countervailing duties" inserted by the Drafting Committee (cf. D.C. Report, page 30), represented Brazil.
2. The delegate supporting the suggestion (made by several other delegates) to insert the words "without prejudicing the legitimate business interests of particular private or state enterprises" represented Czechoslovakia.

3. The delegate supporting the remarks made by the delegate for Czechoslovakia and declaring that if the words mentioned were not included, he would prefer restoration of the London text, represented France.

Paragraph 2.

1. It might be appropriate to replace in the first line, the words "should consider" by "considers".

2. The expression "any object of this Charter" in line 6 might read "any purpose of this Charter", to conform with Article 1 and paragraph (d) of Article 61.

SECTION C - RELATIONS WITH NON-MEMBERS.

Article 36 - Contractual Relations with Non-Members.

Treatment of the Trade of Non-Members.

The text of this Article as given in the United States Draft Charter was left for consideration at a later stage (cf. D.C. Report, page 30).

SECTION I - TERRITORIAL APPLICATION.

Article 38 - Territorial Application of Chapter V - Frontier Traffic - Customs Union.

Paragraph 1.

The International Monetary Fund may contribute to the discussion on the implications of this paragraph on Articles 26, 28 and 29 (cf. D.C. Report, page 32).

Paragraph 2 (b).

The amendment in respect of the initial transitional stage of the formation of a customs union (cf. D.C. Report, page 32) was proposed by the delegate for Chile, supported by the delegate for Lebanon.
Paragraph 3.

The delegate suggesting that provision should be made for the continuation of his country's special arrangements with certain neighbouring islands (cf. D.C. Report, page 32) represented Australia.

Paragraph 4.

1. The two delegates who maintained their reservations in respect of regional preferences represented Brazil and Lebanon. The delegates objecting to the application of paragraph 3 of Article 66 (cf. D.C. Report, page 32) represented Chile and Lebanon.

2. Attention is drawn to the new paragraph to Article 14 proposed by the delegates for Chile and Lebanon (cf. E/PC/T/W.27).

3. It may be considered whether this paragraph (which is not concerned with territorial application) should not be placed elsewhere in the Charter.

Paragraph 5.

No observation.

General note to Sections F - I.

The Benelux and French delegations (cf. W.45) suggest that the Sections F - I and the relevant Articles 34 - 38 be re-arranged as follows:

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