

DRAFT CHARTER

CHINA: PROPOSED AMENDMENTS TO CHAPTER IV - COMMERCIAL POLICY

Article 18

The delegation of China proposes the deletion of the second and third sentences of Paragraph 1, Article 18.

Paragraph 1 of Article 18 deals with national treatment on international taxation and does not deal with protection. Any provision dealing with the prohibition of protection shall properly fall under some other heading or appropriate Article. Moreover, this paragraph is in conflict with the principle underlying paragraph 1 of Article 20, which does not forbid prohibitions or restrictions by duties, taxes, or other charges.

So long as the same internal tax is being levied on an imported product and on a domestic like product, the requirements of national treatment are fulfilled. But it provides that such requirements are not fulfilled when a claim is made that the purpose of such a levy is to afford protection to the production of directly competitive or substitutable products. Apart from the impossibility or difficulty of preventing such a purpose, it is an interference and limitation of the taxing power of a Member country made not expressly or with a clear definition of the limitation, but by way of a disputable exception to the internationally accepted definition of national treatment.

If a Member country intends to protect a product, it need not do so by levying an internal tax on a competitive or substitutable imported product. It need only increase the Custom duty on imported product. The question resolves itself into one of tariff negotiation.

This paragraph not only provides against a contingency which will take place only by the Member countries being guilty of bad faith in subscribing to it, but also encroaches upon the principles of national treatment hitherto internationally accepted in all the commercial treaties.

Should it be the intention to prevent a Member which has entered into a binding arrangement about the rate of duty on an imported product from evading or defeating the obligation thus assumed, Article 89 on consultation is fully competent to deal with such cases.

Article 20

The delegation of China proposes the addition of the following after paragraph 2 (a) of Article 20:

"provided that, in cases of restrictions, priority in supplying such foodstuffs or other products should be accorded to these Member countries which are in urgent need of them and whose domestic production is not substantial. If the commodity has many end uses, the decision as to which end use is the most important should be made by the importing country."

Article 33

The delegation of China proposes the adoption of the following paragraph as Paragraph 1 under Article 33:

"No dumping of any product of any Member country into any other Member country shall be made. Each Member country shall undertake by effective measures appropriate to its governmental system to prevent the dumping of any of its products into the territories of any other Member country. If, in spite of the obligation undertaken under this provision, dumping still takes place, the Member country into the territories of which the products of any other Member country are being dumped shall be free to impose anti-dumping duties on such products or to take other appropriate measures to deal with the situation."

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