

## 参考条文

### 1. GATT 第 20 条の注釈および補足規定 (抄)

#### Ad Article XX

##### Subparagraph (h)

The exception provided for in this subparagraph extends to any commodity agreement which conforms to the principles approved by the Economic and Social Council in its resolution 30 (IV) of 28 March 1947.

### 2. 輸出入禁止制限撤廃条約第 4 条の注釈および補足規定 (下線部分筆者)

#### Ad Article 4

##### (a) ad No. 4

The protection of animals and plants against disease also refers to measures taken to preserve them from degeneration or extinction and to measures taken against harmful seeds, plants, parasites and animals.

##### (b) ad No. 7

The High Contracting Parties, although they have refrained from making any reference to measures relating to “standard” products and definitions of products, declare that this paragraph must be interpreted as in no way interfering with the practice followed by certain countries of subjecting the exportation of their products to certain conditions as to quality with the object of preserving the reputation of those products and at the same time of offering a guarantee to the foreign purchaser. They declare, on the other hand, that they interpret the paragraph in question as prohibiting recourse to any system of classifying or defining products which is employed as an indirect means of restricting the importation of foreign products or of subjecting importation to a regime of unfair discrimination.

##### (c) ad No. 7

The High Contracting Parties declare that prohibitions or restrictions the sole objective of which is either to prevent imported goods from escaping the payment of the customs duties applicable thereto, or in exceptional cases to prevent the importation of certain goods which would reduce the revenue from the duties imposed on certain other goods, may only be established or maintained, if no other effective means exist of securing the said revenue.

##### (d) ad No. 7

The High Contracting Parties declare that if, on account of the constitution of certain States and the different methods of internal control which they employ, it

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should prove impossible to secure complete similarity of treatment between native and imported products, any such difference in treatment must not have the object or effect of establishing an unfair discrimination against the latter.

(e) ad No. 8

The High Contracting Parties declare that they have solely in view monopolies each of which applies only to one or more specific articles.

### 3. 輸出入禁止制限撤廃条約最終議定書 (Final Act) 第 1 項 (動植物檢疫・公衆衛生 関連部分) (下線部分筆者)

The Conference,

Approving the resolutions of the International Economic Conference held at Geneva in May 1927, relative to measures for the prevention of diseases of plants and animals by means of international agreements;

Considering that certain of these agreements, in particular the Berne Convention of 1881 against phylloxera, have led to successful joint action with favorable results;

Considering that measures against epizooties and epiphytes should have in view only the protection of animals and plants or of the public health engendered by the consumption of harmful meat or plants, and should in no case be imposed or enforced as a means of hampering or discriminating against the trade of countries exporting products of the stockbreeding industry or agriculture; and

Considering that it is desirable to adopt only measures of proved efficacy and to make their severity proportionate to the risks of infection anticipated;

Recommends the Council of the League of Nations to undertake with as little delay as possible and in the manner which appears to it most expedient, the necessary investigations, consultations and enquiries with a view to summoning a conference or conferences of experts, with special knowledge of all questions relating to the prevention of diseases of animals and plants, which should be invited to propose to the various Governments joint action that would be effective against the evils that all these Governments desire to combat, and at the same time would have due regard to sovereign rights of States and the interests of international trade.

The Conference is aware that the efforts have been made by certain countries to arrive at the desired results by means of bilateral agreements; it recommends that the bodies to which the Council entrusts the investigations described above should examine the provisions of such agreements and observe their effects.

## 参考条文

### 備考：

GATT 第 20 条に対応する条項であるハバナ憲章第 45 条とでは、いくつかの相違点がある。主なものでは、

①ハバナ憲章には「公安 (public safety) に関する法律および規則の施行に必要な措置」が (ii) 号として規定されている (このため人、動植物の生命・健康の保護についての規定は (iii) 号となっている)、

②GATT 第 20 条の政府間商品協定に関する (h) 号と国内原料価格が国際価格より低位の期間中における輸出制限に関する (i) 号との間に「もっぱら漁業資源、渡り鳥または野獣の保存に関する政府間協定」に従ってとられる措置に関する規定 ((x) 号) がおかれている、

③ハバナ憲章第 45 条が「全般的または地方的に供給が不足している製品の獲得または分配のために必要な措置」、「第二次世界大戦に引き続く物資不足を経験している加盟国が行う価格統制のために不可欠な措置」および加盟国政府が所有・管理する「一時的な余剰在庫の秩序だった整理」等のために不可欠な措置を第 1 項 (a) で列挙したうえで、第 2 項でこれら措置でこの章 (通商政策) の他の規定に抵触するものについては「それを必要ならしめた条件がなくなった場合にはただちに、また、いかなる場合にもこの機関が指定すべき期日までに、これを廃止しなければならない」としている。

以上の点から見て、GATT 第 20 条よりもハバナ憲章第 45 条が輸出入禁止制限撤廃条約により強い類似性をもっていると言えよう。