

DRAFT CHARTER

BELGIUM: PROPOSED AMENDMENT TO ARTICLE 93

Preliminary Remarks

1. The three texts which are submitted for examination by the countries participating in the Conference of the United Nations on Trade and Employment show that there exist divergent views which will be extremely difficult to conciliate. It is therefore urgent that a common ground for agreement should be found.
2. A reasonable supposition is that, in the early days of the Organization, non-Members will be fairly numerous and that some of them will have appreciable economic importance.
3. It therefore appears that relations between Members and non-Members should be governed so as to clearly reserve the right to the advantages under the Charter to Members only, but without setting up an impassable barrier between the Organization and non-Members by refusing to the latter the benefit of the said advantages, benefit which would not create a right to them.
4. The text proposed by the Belgian Government for Article 93 of the Charter of the International Trade Organization contains, for the above reasons, provisions which determine that Members may, if they so desire, grant non-Members the benefit of advantages under the Charter, or similar to those under the Charter, as long as this favour does not cause prejudice to the interests of the Organization or of other Members.
5. A distinction is made between the advantages which a Member is already granting at the time of entry into force of the Charter and the advantages which such Member might propose to grant at a later date.
6. The fact that Members, which consider that their interests are affected by an advantage granted or about to be granted to a non-Member, may appeal to the Organization, confers a precarious character on the benefits conceded to a non-Member which can but incite it to join the Organization.

Article 93

1. No Member shall seek preferential or exclusive advantages for its trade with a non-Member, nor shall it grant any such advantages to a non-Member.
2. A Member may nevertheless continue to grant to a non-Member the treatment it was granting in fact, or in accordance with contractual engagements, at the date on which this Charter became effective for the said Member. The treatment

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granted by the Member to the non-Member may comprise advantages identical or equivalent to those under this Charter or resulting from the acceptance by the Member of the General Agreement on Tariffs and Trade.

3. If it so desires, a Member may in fact or in accordance with the terms of an agreement, grant to a non-Member any one of the advantages resulting from Chapter IV of this Charter, or any one of the tariff concessions accorded by the said Member under the General Agreement on Tariffs and Trade or following negotiations under Article 17 of this Charter, being advantages or concessions which the non-Member did not previously enjoy. The Member proposing to take action as above, shall inform the Organization which shall in turn inform the other Members.

4. Any Member may at any time appeal to the Organization in order to obtain that advantages being granted by another Member, or proposed to be granted, to a non-Member be withdrawn if such Member considers that its interests are unduly injured or that the purposes of the Organization are being impeded. A Member may also request the Organization to consider whether any advantage granted by a non-Member to a Member is not an exclusive or preferential advantage the benefit of which should either be extended to all Members of the Organization or be refused by the said Member.

5. In deciding whether it should or should not approve the action of a Member against which an appeal has been presented in accordance with the provisions of paragraph 4 of this Article, the Organization shall have regard to the general purpose and objectives of the present Charter, as well as to the legitimate interests of the various interested Members.

6. Within sixty days of its receipt of written notification of a decision by the Organization disapproving an advantage or an agreement to which the provisions of paragraph 4 of this Article apply, a Member shall inform the Organization as to whether it accepts the said decision and in the affirmative the said Member shall take all necessary steps. If the Member is unable to comply with the said decision, it shall have to give notice in writing to the Director-General of its withdrawal; such withdrawal becoming effective sixty days after such notice has been given.

7. Nothing in this Article shall be interpreted as overriding any of the economic provisions in the treaties of peace between the Allied and Associated Powers and the States which were their enemies during the second world war or in respect of which they may claim the benefit of the economic provisions of the said peace treaties.

A note to Article 93 could, if necessary, make clear that, for the purposes of this Article, the terms "non-Member" apply to any State not being a Member of the Organization, whether or not it is eligible for membership.

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