

SIXTH COMMITTEE: ORGANIZATION

DRAFT REPORT

PART II

CHAPTER I. PURPOSE AND OBJECTIVES

Article 1\*

RECOGNIZING the determination of the United Nations to create conditions of stability and well-being which are necessary for peaceful and friendly relations among nations,

THE PARTIES to this Charter undertake in the fields of trade and employment to co-operate with one another and with the United Nations For the Purpose of

REALIZING the aims set forth in the Charter of the United Nations, particularly the attainment of the higher standards of living, full employment and conditions of economic and social progress and development, envisaged in Article 55 of that Charter.

TO THIS END they pledge themselves, individually and collectively, to promote national and international action designed to attain the following objectives:

1. To assure a large and steadily growing volume of real income and effective demand, to increase the production, consumption and exchange of goods, and thus to contribute to a balanced and expanding world economy.
2. To foster and assist industrial and general economic development, particularly of those countries which are still in the early stages of industrial development, and to encourage the international flow of capital for productive investment.
3. To further the enjoyment by all countries, on equal terms, of access to the markets, products and productive facilities which are needed for their economic prosperity and development.

\* The text of this Article may be amended after discussion of the proposals of the representatives of Argentina and Ecuador (document E/CONF.2/C.6/98) have been finally considered.

/4. To promote

4. To promote on a reciprocal and mutually advantageous basis the reduction of tariffs and other barriers to trade and the elimination of discriminatory treatment in international commerce.
5. To increase freedom of trade by encouraging the development of closer economic integration throughout areas more extensive than those defined by political frontiers.\*
6. To enable countries, by increasing the opportunities for their trade and economic development on a mutually advantageous basis, to abstain from measures which would disrupt world commerce, reduce productive employment or retard economic progress.
7. To facilitate through the promotion of mutual understanding, consultation and co-operation the solution of problems relating to international trade in the fields of employment, economic development, commercial policy, business practices and commodity policy.

ACCORDINGLY they hereby establish the INTERNATIONAL TRADE ORGANIZATION through which they shall co-operate as Members to achieve the purpose and the objectives set forth in this Article.

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\* The Central Drafting Committee is asked to consider whether the word "integration" in the English text, which is the authentic text of Article 1, has been adequately translated by the word "unités" in the French text.

CHAPTER VII. THE INTERNATIONAL TRADE ORGANIZATION

Section A. Structure and Functions

Article 68

Membership

1. The original Members of the Organization shall be:
  - (a) those States invited to the United Nations Conference on Trade and Employment whose Governments accept this Charter by 30 September 1949\* in accordance with paragraph 1 of Article 98, or, if the Charter shall not have entered into force by 30 September 1949, those States whose Governments agree to bring this Charter into force in accordance with paragraph 2 (c) of Article 98;
  - (b) those separate customs territories invited to the United Nations Conference on Trade and Employment upon acceptance by 30 September 1949 of the Charter on their behalf by the competent Member in accordance with paragraph 2 of Article 99, or, if this Charter shall not have entered into force by 30 September 1949, those separate customs territories upon acceptance of this Charter on their behalf by the competent Member in accordance with paragraph 2 (c) of Article 98. Should any of these customs territories have, by the time it wishes to deposit an acceptance of the Charter, become fully responsible for the formal conduct of its diplomatic relations, it shall proceed under sub-paragraph 1 (a) of this Article.
2. Any other State whose membership has been approved by the Conference shall become a Member of the Organization upon its acceptance, in accordance with paragraph 1 of Article 98 of this Charter, as amended up to the date of such acceptance.
3. Any separate customs territory not invited to the United Nations Conference on Trade and Employment, proposed by the competent Member having responsibility for the formal conduct of its diplomatic relations and which is autonomous in the conduct of its external commercial relations and of the other matters provided for by this Charter and whose admission is approved by the Conference shall become a Member upon acceptance of the Charter on its behalf by the competent Member in accordance with Article 99, or, in the case of a territory in respect of which the Charter has been accepted under the said Article, upon such approval by the Conference, after it has thus become autonomous.

\* The Committee has yet to approve this date.

/4. The Conference

4. The Conference shall determine, by a two-thirds majority of the votes cast, the conditions upon which, in each individual case, membership rights and obligations shall be extended to:

- (a) the Free Territory of Trieste;
- (b) any Trust Territory administered by the United Nations; and
- (c) any other special regime established by the United Nations.

5. The Conference, on application of the competent authorities, shall determine the conditions upon which rights and obligations under the Charter shall apply to such authorities in respect of territories under military occupation and shall determine the extent of such rights and obligations.

#### Article 69

##### Functions

1. The Organization shall perform the functions provided for elsewhere in this Charter. In addition the Organization shall have the following functions:

- (a) to collect, analyse and publish information relating to international trade, including information relating to commercial policy, business practices, commodity problems and industrial and general economic development;\*
- (b) to encourage and facilitate consultation among Members on all questions relating to the provisions of this Charter;
- (c) to undertake studies on and, having due regard to the objectives of the Charter and the constitutional and legal systems of Members, make recommendations for, and promote international bilateral or multilateral agreements on, measures designed
  - (i) to assure just and equitable treatment for foreign nationals and enterprises;
  - (ii) to expand the volume and to improve the bases of international trade, including measures designed to facilitate commercial arbitration and the avoidance of double taxation;
  - (iii) to carry out, by regional or other basis, having due regard to the activities of existing regional or other organizations, the functions specified in paragraph 2 of Article 10;

\* The proposal of the delegation of Argentina to add the word "social" before the word "economic" has yet to be considered.

//(iv) to promote

(iv) to promote and encourage establishments for the technical training that is necessary for progressive industrial and economic development; and

(v) generally to achieve any of the objectives set forth in Article 1;\*

(d) generally to consult with and make recommendations to the Members and, as necessary, furnish advice and assistance to them regarding any matter relating to the operation of this Charter, and to take any other action necessary and appropriate to carry out the provisions of this Charter;

(e) to co-operate with the United Nations and inter-governmental organizations in furthering the achievement of the economic and social objectives of the United Nations and the restoration and maintenance of international peace and security;

(f) in such collaboration with the Economic and Social Council of the United Nations and with other inter-governmental organizations as may be appropriate, to undertake studies on the relationship between world prices of primary commodities and manufactured products, to consider and, where appropriate, to recommend international agreements on, measures designed to reduce progressively any unwarranted disparity in those prices.\*\*

2. In the exercise of its functions the Organization shall have due regard to the economic circumstances of Members, to the factors affecting these circumstances and to the consequences of its determinations upon the interests of the Member or Members concerned.\*\*\*

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\* The proposal of the delegation of Czechoslovakia to amend the introduction to sub-paragraph (c) to read "to promote international agreement on and measures designed . . . ." has yet to be considered.

\*\* The Central Drafting Committee is requested to take account of the observation of the representative of China that sub-paragraph (f) should be placed before sub-paragraph (d) and of the rearrangement of Article 69 proposed by the representative of Costa Rica. (document E/CONF.2/C.6/12/Add.17).

\*\*\* The Central Drafting Committee is asked to consider whether this paragraph has been properly placed as a part of Article 69 or whether it should not be included in Chapter IX.

Article 70

Structure

The Organization shall have a Conference, an Executive Board, Commissions as established under Article 79, and such other organs as may be required. There shall also be a Director-General and Staff.

Section B. The Conference

Article 71

Composition

1. The Conference shall consist of all the Members of the Organization.
2. Each Member shall have one representative in the Conference and may appoint alternates and advisers to its representative.

Article 72

Voting

1. Each Member shall have one vote in the Conference.
2. Except as otherwise provided in the Charter, decisions of the Conference shall be taken by a majority of the Members present and voting, Provided that the rules of procedure of the Conference may permit a Member to request a second vote if the number of votes cast is less than one-half of the Members of the Organization, in which case the decision reached on the second vote would be final whether or not the majority of votes cast comprises more than one-half of the Members of the Organization.

Article 73

Sessions, Procedure and Officers

1. The Conference shall meet at the seat of the Organization in regular annual session and in such special sessions as may be convoked by the Director-General at the request of the Executive Board or of one-third of the Members. In exceptional circumstances the Executive Board may decide that the Conference shall be held at a place other than the seat of the Organization.
2. The Conference shall establish rules of procedure which may include rules appropriate for the carrying out of its functions during the intervals between its sessions. It shall annually elect its President and other officers.

Article 74

Powers and Duties

1. The powers and duties attributed to the Organization by this Charter and the final authority to determine the policies of the Organization shall be /vested

vested in the Conference.

2. The Conference may assign to the Executive Board the exercise of any power or the performance of any duty of the Organization, except such specific powers and duties as are expressly conferred or imposed upon the Conference by this Charter.

3. In exceptional circumstances not elsewhere provided for in this Charter, the Conference may waive an obligation imposed upon a Member by this Charter; Provided that any such decision shall be approved by a two-thirds majority of the votes cast and that such majority shall comprise more than half of the Members of the Organization. The Conference may also by such a vote define certain categories of exceptional circumstances to which other voting requirements shall apply for the waiver of obligations.

4. The Conference may prepare or sponsor agreements with respect to any matter within the scope of the Charter and by a two-thirds majority of the votes cast, recommend such agreements for acceptance. Each Member shall, within a period specified by the Conference, notify the Director-General of its acceptance or non-acceptance. In the case of non-acceptance, a statement of the reasons therefor shall be forwarded with the notification.

5. The Conference may make recommendations to the various inter-governmental organizations regarding any matter pertaining to the purpose and objectives set forth in Article 1.

6. The Conference shall ~~approve the~~ budget of the Organization and shall apportion the expenditures of the Organization among the Members in accordance with a scale of contributions to be fixed time to time by the Conference following such principles as may be applied by the United Nations. If a maximum limit is established on the contribution of a single Member with respect to the budget of the United Nations, such limit shall also be applied with respect to contributions to the Organization.

7. The Conference shall determine the seat of the Organization and shall establish such branch offices as it may consider desirable.

#### Section C. The Executive Board

#### Article 75

#### Composition of the Executive Board

1. The Executive Board shall consist of the representatives of eighteen Members of the Organization selected by the Conference; Provided that a customs union, as defined in paragraph 4 of Article 42, may be so elected if all of its members are Members of the Organization and if its members desire to be represented as a unit.

2. The Executive Board shall be representative of broad geographical areas included within the membership of the Organization. In selecting the members  
/of the Executive

of the Executive Board, the Conference shall have regard to the objective of ensuring that the Board includes Members or customs unions of chief economic importance having particular regard to international trade, and is representative of the diverse types of economies or different degrees of economic development existing within the membership of the Organization.

3. (a) At intervals of three years the Conference shall determine, by a two-thirds majority of the Members present and voting, the eight Members or customs unions of chief economic importance having particular regard to international trade. Such Members or customs unions shall be declared members of the Executive Board.

(b) The other members of the Executive Board shall be elected by the Conference by a two-thirds majority of the Members present and voting.

(c) If on two consecutive ballots no member is elected, the remainder of the election shall be by a majority of the Members present and voting.

4. The term of a member of the Executive Board shall be three years, except that, at the first election, the provisions of Annex X shall apply. Any vacancy in the Board shall be filled by the Conference for the unexpired term of the vacancy.

5. The Conference shall establish rules for giving effect to the provisions of this Article.

#### Annex to Article 75

To facilitate the work of the first Conference, the following rules for the implementation of Article 75 shall apply at the first election:

1. Six seats shall be filled, under Article 75, sub-paragraph 3 (a) and 3 (b), by representatives of Member countries in the Western Hemisphere.\*

If five or more of these countries, eligible under sub-paragraph 3 (b), have not become Members of the Organization at the time of the election, only three of these seats shall be filled by application of the said sub-paragraph. If ten or more of the countries in the Western Hemisphere, eligible under sub-paragraph 3 (b), have not become Members of the Organization at the time of the election, only two seats shall be filled under the same sub-paragraph. The seat or seats thus unoccupied shall not be filled unless the Conference otherwise decides by a two-thirds majority vote.

2. In order to insure the election of countries under the criterion of sub-paragraph 3 (a) of Article 75, the following countries shall be deemed to fulfill the conditions set out in said sub-paragraph 3 (a), namely:

(1) The two countries in the Western Hemisphere\* and the three

\* That is, North, Central and South America.

/countries or

- countries or customs unions in Europe participating in the Havana Conference with the largest external trade; and
- (ii) The three countries with the largest population in the world, having in view their potential importance in international trade.

Should any of these countries not be a Member of the Organization at the time of the election, the Conference will review the situation; but the seat or seats thus unoccupied shall not be filled unless the Conference otherwise decides by two-thirds majority vote.

3. The election of Members of the Executive Board under the criterion of Article 75, sub-paragraph 3 (b), shall be conducted so as to insure the adequate implementation of the requirements of Article 75, having regard, among other considerations, to the fact that geographical groups may be representative of affinities between a number of countries, giving their group a character of distinctiveness and unity.

4. The eight Members elected under sub-paragraph 3 (a) of Article 75 shall serve for a term of three years. Of the ten Members elected under sub-paragraph 3 (b), five Members, as determined by lot, shall serve for a term of two years, and the remaining five Members for a term of four years.

#### Article 76

##### Voting

1. Each member of the Executive Board shall have one vote.
2. Decisions of the Executive Board shall be made by a majority of the votes cast.

#### Article 77

##### Sessions, Procedure and Officers

1. The Executive Board shall adopt its own rules of procedure, including rules concerning the convening of its sessions. The rules of procedure shall be subject to confirmation by the Conference.
2. The Executive Board shall annually elect its Chairman and other officers, who shall be eligible for re-election.
3. The Chairman of the Executive Board shall be entitled ex officio to participate, without the right to vote, in the deliberation of the Conference.
4. Any Member of the Organization which is not on the Executive Board shall be invited to participate in the discussion by the Board of any matter of particular and substantial concern to that Member and shall, for the purpose of such discussion, have all the rights of Members on the Board, except the right to vote.

#### /Article 78

Article 78

Powers and Duties

1. The Executive Board shall be responsible for the execution of the policies of the Organization and shall exercise the powers and perform the duties assigned to it by the Conference. It shall supervise the activities of the Commissions and shall take such action upon their recommendations as it may deem appropriate.
2. The Executive Board may make recommendations to the Conference, or to inter-governmental organizations, on any subject within the scope of this Charter.

Section D. The Commissions

Article 79

Establishment and Functions

The Conference shall establish such Commissions as may be required for the performance of the functions of the Organization in accordance with the provisions of this Charter. The Commissions shall have such functions as the Conference may decide. Commissions shall report to the Executive Board and shall perform such tasks as the Board may assign to them. The Commissions shall consult each other as necessary for the exercise of their functions.

Article 80

1. Except as otherwise decided by the Conference, Commissions shall be composed of persons chosen by the Executive Board. The persons so chosen shall be qualified by training or experience to carry out the functions of the Commissions.\*
2. The number of members, which normally shall not exceed seven, of each Commission and the conditions of their service shall be determined in accordance with regulations prescribed by the Conference.
3. Each Commission shall elect its Chairman, and shall adopt rules of procedure which shall be subject to approval by the Executive Board.

\* It was agreed that the Central Drafting Committee should be asked to consider and decide whether or not the language used in this paragraph made it absolutely clear that the Conference could not decide to elect members of commissions on grounds other than personal capacity. If the Central Drafting Committee considers that the language used does not make this intention absolutely clear, it is requested to recommend an appropriate redraft.

/4. The rules

4. The rules of procedure of the Conference and of the Executive Board shall provide as appropriate for the participation in their deliberations, without the right to vote, of the chairmen of Commissions.
5. The Organization shall arrange for representatives of inter-governmental organizations considered by the Organization to have a special competence in the field of activity of any of the Commissions, to participate in the work of such Commissions.

Section E. The Tariff Committee

Article 81

The Tariff Committee

(This Article has been deleted)

Section F. The Director-General and Staff

Article 82

The Director-General

1. The chief administrative officer of the Organization shall be the Director-General. He shall be appointed by the Conference upon the recommendation of the Executive Board. The powers, duties, conditions and term of office of the Director-General shall conform to regulations approved by the Conference. He shall be subject to the general supervision of the Executive Board.
2. The Director-General or his representative shall be entitled to participate, without the right to vote, in all meetings of the various organs of the Organization.
3. The Director-General shall present to the Conference an annual report on the work of the Organization and the annual budget estimates and the financial statements of the Organization.

Article 83

The Staff

1. The Director-General having first consulted with, and having obtained the agreement of the Executive Board, shall have authority to appoint Deputy Directors-General in accordance with regulations approved by the Conference.
2. The selection of the Staff, including the appointment of the Deputy Directors-General, shall as far as possible be made with due regard to the various types of economy and on a wide geographical basis. The paramount consideration in the selection of candidates and in determining the conditions of service of the Staff shall be the necessity of securing the highest standards of efficiency, competence, impartiality and integrity.

/3. The conditions

3. The conditions of service, such as the provisions governing qualifications, salary, tenure and retirement of members of the Staff shall be fixed, so far as practicable, in conformity with those for members of the Secretariat of the United Nations and of other specialized agencies.

Section G. Other Organizational Provisions

Article 83A

Relations with the United Nations

(Text to be adopted to be inserted)

Article 84

Relations with Other Organizations

1. The Organization shall be brought into relationship with the United Nations as soon as practicable as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations. This relationship shall be effected by agreement to be approved by the Conference. Any such agreement shall provide for effective co-operation and the avoidance of unnecessary duplication in the activities of the respective organizations.
2. The Organization shall make arrangements with other inter-governmental organizations which have related responsibilities, to provide for effective co-operation and the avoidance of unnecessary duplication in the activities of the organizations. The Organization may for this purpose arrange for joint committees, reciprocal representation at meetings and establish such other working relationships as may be necessary.
3. The Organization may make suitable arrangements for consultation and co-operation with non-governmental organizations concerned with matters within the scope of this Charter.
4. Whenever the Conference and the competent authorities of any other inter-governmental organization whose purposes and functions lie within the scope of this Charter, deem it desirable
  - (a) to incorporate such other inter-governmental organizations into the Organization, or
  - (b) to effect a transfer of all or a part only of its functions and resources to the Organization, or
  - (c) to bring it under the supervision or authority of the Organization,the Director-General, subject to the approval of the Conference, may enter into an appropriate agreement. Members shall, in conformity with their international obligations, take the action necessary to give effect to any such agreement.

/Article 85

Article 85

International Responsibilities of the Director-General,  
Staff and Members of Commissions

1. The responsibilities of the Director-General and of the Staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government, or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials.
2. The provisions of paragraph 1 of this Article shall also apply to members of the Commissions provided for in Section D of this Chapter.
3. The Members shall respect the international character of the responsibilities of these persons and shall not seek to influence them in the discharge of their duties.

Article 86

International Legal Status of the Organization.

The Organization shall have legal personality and shall enjoy such legal capacity as may be necessary for the exercise of its functions.

Article 87

Status of the Organization in the Territory of Members

1. The Organization shall enjoy in the territory of each of its Members such legal capacity, privileges and immunities as may be necessary for the exercise of its functions.
2. Representatives of the Members of the Organization and its officials shall similarly enjoy such privileges and immunities as may be necessary for the independent exercise of their functions in connection with the Organization.
3. When the Organization has been brought into relationship with the United Nations as provided for in Article 84, paragraph 1, of the present section, the legal capacity of the Organization and the privileges and immunities provided for in the preceding paragraphs will be defined by the General Convention on Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations on 21 November 1947, as completed by an annex relating to the International Trade Organization.

Article 88

Contributions

Each Member shall contribute promptly to the Organization its share of the expenditures of the Organization as apportioned by the Conference. A Member which is in arrears in the payment of its financial contributions  
/to the Organization

to the Organization shall have no vote in the organs of the Organization if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Conference may, nevertheless, permit such a Member to vote, if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

CHAPTER VIII. SETTLEMENT OF DIFFERENCES

Article 88A

Reliance on the Procedures of the Charter

1. The Members undertake, in relation to other Members of the Organization, that they will not have recourse to any procedure other than the procedure envisaged in this Charter for complaints and the settlement of differences arising out of its operation.
2. The Members also undertake, without prejudice to any other international agreement, that they will not have recourse to unilateral economic measures of any kind contrary to the provisions of this Charter.

Article 89

Consultation and Arbitration

1. If any Member considers that any benefit accruing to it directly or indirectly, implicitly or explicitly, under any of the provisions of this Charter other than Article 1, is being nullified or impaired as a result of
  - (a) a breach by a Member of an obligation under this Charter by action or failure to act; or
  - (b) the application by a Member of a measure not conflicting with the provisions of this Charter; or
  - (c) the existence of any other situation;the Member may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to such other Member or Members as it considers to be concerned, and the Members receiving them shall give sympathetic consideration thereto.
2. The Members concerned may submit the matter arising under paragraph 1 to arbitration upon terms agreed between them; Provided that the decision of the arbitrator shall not be binding for any purpose upon the Organization or upon any Members other than those participating in the arbitration.
3. The Members concerned shall inform the Organization generally of the progress and outcome of any discussion, consultation or arbitration undertaken under this Charter.

Article 90

Reference to the Executive Board

1. Any matter arising under Article 89 (1) (a) or (b) which is not satisfactorily settled and any matter which arises under Article 89 (1) (c) may be referred by any Member concerned to the Executive Board.
2. The Executive

2. The Executive Board shall promptly investigate the matter and shall decide whether any nullification or impairment in fact exists within the terms of Article 89 (1). It shall then take such of the following steps as may be appropriate:

- (i) decide that the matter does not call for any action;
- (ii) recommend further consultation to the Members concerned;
- (iii) refer the matter to arbitration upon such terms as may be agreed between the Executive Board and the Members concerned;
- (iv) in any matter arising under Article 89 (1) (a) request the Member concerned to take or discontinue such action as may be necessary for the Member to conform to the provisions of the Charter;
- (v) in any matter arising under Article 89 (1) (b) or (c), make such recommendations to Members as will best assist the Members concerned and contribute to a satisfactory adjustment.

3. If the Executive Board considers that action under Article 90 (2) (iv) and (v) is not likely to be effective in time to prevent serious injury, and that any nullification or impairment found to exist under Article 89 (1) is sufficiently serious to justify such action, it may, subject to the provisions of paragraph 1 of Article 90A, release the Member or Members affected from obligations or the grant of concessions to any other Member or Members under or pursuant to the Charter, to the extent and upon such conditions as it considers appropriate and compensatory, having regard to the benefit which has been nullified or impaired.

4. The Executive Board may, in the course of its investigation, consult with such Members or inter-governmental organization and upon such matters within the scope of the Charter as it deems appropriate. It may also consult any appropriate commission of the Organization on any matter arising under this Chapter.

5. The Executive Board may bring any matter, referred to it under this Article, before the Conference at any time during its consideration of the matter.

#### Article 90A

##### Reference to the Conference

1. The Executive Board shall, if requested to do so within thirty days by a Member concerned, refer to the Conference for review any action, decision or recommendation by the Executive Board under paragraph 2 or 3 of Article 90. Unless such review has been asked for by a Member concerned, Members shall be entitled to act in accordance with any action, decision or recommendation of  
/the Executive

- the Executive Board under paragraph 2 or 3 of Article 90. The Conference shall by resolution confirm, modify or reverse such action, decision or recommendation.
2. Where a matter arising under this Chapter has been brought before the Conference by the Executive Board, the Conference shall follow the same procedure as that set out in Article 90 (2) for the Executive Board.
  3. If the Conference considers that any nullification or impairment found to exist under Article 89 (1) (a) is sufficiently serious to justify such action, it may authorize the release of the Member or Members affected from obligations or the grant of concessions to any other Member or Members under or pursuant to the Charter, to the extent and upon such conditions as it considers appropriate and compensatory, having regard to the benefit which has been nullified or impaired. If the Conference considers that any nullification or impairment found to exist under Article 89 (1) (b) or (c) is sufficiently serious to justify such action, it may similarly authorize a release of a Member or Members to the extent and upon such conditions as will achieve the objects set out in Article 90 (2) (v).
  4. When any Member or Members suspend the performance of any obligation or grant of any concession to another Member in accordance with paragraph 3, the latter Member shall then be free not later than sixty days after such action is taken, or after the opinion of the International Court of Justice is given, to give notice of its withdrawal from the Organization. Such withdrawal shall become effective upon the expiration of sixty days from the day on which such notice is received by the Director-General.

#### Article 91

##### Reference to the International Court of Justice

1. The Organization may, in accordance with arrangements made pursuant to paragraphs 2 of Article 96 of the Charter of the United Nations, request from the International Court of Justice advisory opinions on legal questions arising within the scope of the activities of the Organization.
2. Any resolution or decision of the Conference under this Charter shall, upon the instance of any Member whose interests are thereby prejudiced, be subject to review by the International Court of Justice through the means of a request, in appropriate form, for an advisory opinion pursuant to the Statute of the Court.
3. The request for an advisory opinion shall be accompanied by a statement to be furnished by the Organization in consultation with the Members substantially interested, in accordance with the Statute of the International Court of Justice, of the question upon which an opinion is required and accompanied by all documents likely to throw light upon the question.
4. Pending the

4. Pending the delivery of the opinion of the International Court of Justice, the resolution or decision of the Conference shall have full force and effect; Provided that the Conference shall suspend the operation of any such resolution or decision pending the delivery of the opinion where in the view of the Conference damage difficult to repair would otherwise be caused to a Member concerned.

5. The Organization shall consider itself as bound by the opinion of the International Court of Justice on any question referred by it to the Court. The resolution or decision in question shall be modified insofar as it does not accord with the opinion of the International Court of Justice.

Article 92

Miscellaneous Provisions

1. Nothing in this Charter shall be construed to exclude other procedures provided for in this Charter for consultation and settlement of differences arising out of its operation. The Organization may regard discussion, consultation or investigation undertaken under any other provisions of the Charter as fulfilling, either in whole or in part, any similar procedural requirement in this Chapter.

2. The Conference and the Executive Board shall establish such rules of procedure as may be necessary to carry out the provisions of this Chapter.

CHAPTER IX. GENERAL PROVISIONS

Article 93

Relations with Non-Members

1. Nothing in this Charter shall preclude any Member from maintaining economic relations with non-Members.
2. Members recognize that it would be inconsistent with the purpose of this Charter to seek, except as provided in Article 15, any arrangements with non-Members for the purpose of obtaining for the trade of such Members preferential treatment as compared with the trade of other Members, or so to conduct their trade with non-Members as to result in injury to other Members.\* Accordingly,
  - (a) no Member shall enter into any new arrangement with a non-Member which precludes the non-Member from extending to other Members any benefit provided for by such arrangement.
  - (b) Subject to the provisions of Chapter IV, no Member shall extend to the trade of any non-Member treatment which, being more favourable than that which it extends to any Member, injures the economic interests of another Member.
3. Nothing in this Charter shall be interpreted to require a Member to extend to non-Members treatment as favourable as that which it extends to Members under the provisions of the Charter. Failure to extend such treatment shall not be regarded as inconsistent with the terms or the spirit of the Charter.
4. The Executive Board shall make periodic studies of general problems arising out of commercial relations between Members and non-Members and, with a view to promoting the purpose of the Charter, may make recommendations to the Conference with respect to such relations. Any recommendation involving alterations in provisions of this Article shall be dealt with in accordance with Article 95.

Interpretative Note to Article 93

Nothing in Article 93 shall be construed to prejudice or prevent the operation of the provisions of Article 57 (1) regarding the treatment to be accorded to non-participating countries under the terms of a commodity control agreement which conforms to the requirements of Chapter VI.

\* The insertion of the phrase "except as provided in Article 15" has yet to be approved.

COMMERCE ET DE L'EMPLOI  
DU  
CONFERENCE  
Nations Unies

TRADE AND EMPLOYMENT  
ON  
/Article 94  
CONFERENCE  
United Nations

Article 94

General Exceptions

(Text yet to be adopted to be inserted.)

Article 95

Amendments

1. Any amendment to this Charter which does not alter the obligations of Members shall become effective upon approval by the Conference by the affirmative vote of two-thirds of the Members.
2. Any amendment which alters the obligation of Members shall, after receiving the approval of the Conference by the affirmative votes of two-thirds of the Members present and voting, become effective for each Member accepting the amendment upon the ninetieth day after two-thirds of the Members have notified the Director-General of their acceptance, and thereafter for each remaining Member, on acceptance by it. The Conference may, in its resolution approving an amendment under this paragraph, determine, by the same two-thirds majority, that the amendment is of such a nature that all Members, which have not accepted it within a specified period after the amendment has become effective, shall be suspended from membership in the Organization; Provided that at any time, the Conference may, by the affirmative votes of two-thirds of the Members present and voting, determine the conditions under which this suspension shall be waived with respect to any such Member.
3. A Member not accepting an amendment under paragraph 2 of this Article shall be free to withdraw from the Organization at any time after the amendment has become effective; upon the expiration of sixty days from the day on which written notice of such withdrawal, which may be given at any time, is received by the Director-General; Provided that the withdrawal of any Member suspended under paragraph 2 of this Article shall be effective upon receipt of written notice of withdrawal by the Director-General.
4. The Conference shall, by the affirmative votes of two-thirds of the Members present and voting, establish rules with respect to the reinstatement of Members suspended under the provisions of paragraph 2 of this Article and any other rules required for carrying out the provisions of this Article, including the determination whether paragraph 1 or paragraph 2 would apply.

Annex to Article 95

Any amendment to Chapter VIII of this Charter which may be recommended by the Interim Commission after consultation with the International Court of Justice and which relates to review by the International Court of matters arising out of the Charter but not already covered in Chapter VIII shall become effective upon receiving approval of the Conference at its first regular session

/by affirmative

by affirmative vote of a simple majority of the Members;

Provided; that such amendment shall not provide for review by the International Court of any economic or financial fact as established by or through the Organization; and provided further that such amendment shall not affect the obligation of Members to accept the advisory opinion of the International Court as binding on the Organization upon the points covered by such opinion; and provided further that, if such amendment involves an alteration in the obligations of Members, any Member which does not wish to accept it may withdraw from the Organization upon the expiry of sixty days from the day on which written notice of such withdrawal is received by the Director-General.

#### Article 96

##### Review of the Charter

1. The Conference shall carry out a general review of the provisions of this Charter at a special session to be convened in conjunction with the regular annual session nearest the end of the fifth year after its entry into force.
2. The Director-General shall invite each Member, at least one year in advance, to submit any amendment or observations which they may wish to propose and shall circulate them for consideration by the other Members.
3. Amendments resulting from such review shall become effective according to the procedure established in Article 95.

#### Article 97

##### Withdrawal and Termination

1. Without prejudice to the provisions of paragraph 2 of Article 17, paragraph 4 of Article 90, or paragraph 2 of Article 95, any Member may withdraw from the Organization either on its own behalf or on behalf of a separate customs territory on behalf of which it has accepted this Charter in accordance with the provisions of Article 99 at any time after the expiration of three years from the day of the entry into force of this Charter, by written notice addressed to the Director-General. The Director-General shall immediately notify all other Members.
2. A withdrawal under paragraph 1. of this Article shall take effect upon the expiration of six months from the day on which written notice of such withdrawal is received by the Director-General.
3. This Charter may be terminated at any time by agreement of three-fourths of the Members.

#### /Article 98

Article 98

Entry into Force and Registration

1. The Government of each State accepting this Charter shall deposit an instrument of acceptance with the Secretary-General of the United Nations, who will inform all governments represented at the United Nations Conference on Trade and Employment and all Members of the United Nations not so represented, of the date of deposit of each instrument of acceptance and of the day on which this Charter enters into force. After the entry into force of this Charter pursuant to the terms of paragraph 2 of this Article, each instrument of acceptance so deposited shall take effect on the sixtieth day following the day on which it is deposited: Provided that for the purpose of the first regular session of the Conference any Government which has deposited an instrument of acceptance pursuant to this paragraph prior to the first day of the session, shall have the right to participate in the Conference as a Full Member.
2. This Charter shall enter into force:
  - (a) on the sixtieth day following the day on which a majority of the Governments signing the Final Act of the United Nations Conference on Trade and Employment have deposited instruments of acceptance pursuant to paragraph 1 of this Article;
  - (b) if, during the period of one year from the date of signature of the said Final Act, the Charter has not entered into force pursuant to sub-paragraph (a) of this Article, then on the sixtieth day following the day on which the number of Governments represented at the United Nations Conference on Trade and Employment which have deposited instruments of acceptance pursuant to paragraph 1 of this Article shall reach twenty.\*

\* The Central Drafting Committee is requested to consider the following drafting amendment to this paragraph suggested by the representative of Ireland:

"(b) if, during the period of one year from the date of signature of the said Final Act, the Charter has not entered into force pursuant to sub-paragraph (a) of this Article, then on the expiration of such period or on the sixtieth day following the day on which the number of governments represented at the United Nations Conference on Trade and Employment which have deposited instruments of acceptance pursuant to paragraph 1 of this Article shall reach twenty, whichever is the later:"

/(c) if this Charter

- (c) if this Charter shall not have entered into force by 30 September 1949, then the Secretary-General of the United Nations shall institute consultation among those Governments which have deposited acceptances to determine whether and on what conditions they desire to bring the Charter into force.
3. Until 30 September 1949 no state or separate customs territory whose government has signed the said Final Act shall be deemed to be a non-Member under the terms of Article 93.
4. The United Nations is authorized to effect registration of this Charter as soon as it comes into force.

Article 99

Territorial Application

1. Each Government accepting this Charter does so in respect of its metropolitan territory and of the other territories for which it has international responsibility except such separate customs territories as it shall notify to the Organization at the time of its own acceptance.
2. Each Member may at any time accept this Charter in accordance with paragraph 1 of Article 98 on behalf of any separate customs territory excepted under paragraph 1 of this Article.
3. Each Member shall take such reasonable measures as may be available to it to assure observance of the provisions of this Charter by the regional and local governments and authorities within its territory.

Interpretative Note to Article 99

In the case of a condominium, where the co-domini are Members of the Organization, they may, if they so desire and agree, jointly accept this Charter in respect of the condominium.

Article 99 A

Annexes

The Annexes to this Charter are an integral part of this Charter.

Article 100

Title and Date of the Charter and Deposit and Authenticity of Texts

1. This document shall be known officially as the Havana Charter. The original texts of the Charter in the official languages of the United Nations shall be deposited with the Secretary-General of the United Nations, who will furnish certified copies of the texts to all interested Governments. Subject to the provisions of the Statute of the International Court of Justice, such texts shall be equally authoritative for the purposes of the interpretation  
/of this Charter

of this Charter and any discrepancy arising from a difference between texts\* shall be settled by the Conference.

2. The date of this Charter shall be the day upon which the Final Act of the United Nations Conference on Trade and Employment is signed.

DRAFT RESOLUTION

THE UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

HAVING considered the relation of the International Trade Organization and the International Court; and

HAVING provided in Chapter VIII of the Charter, procedures for review by the International Court of legal questions arising out of decisions and recommendations of the Organization,

RESOLVES that the Interim Commission of the International Trade Organization, through such means as may be appropriate, shall consult with appropriate officials of the International Court or with the Court itself, and after such consultation report to the first regular session of the Conference of the International Trade Organization upon the questions of:

(a) whether such procedures need to be changed to ensure that decisions of the Court on matters referred to it by the Organization should, with respect to the Organization, have the nature of a judgment; and

(b) whether an amendment should be presented to the Conference pursuant to and in accordance with provisions of the annex to Article 95 of the Charter.

\* The Central Drafting Committee is asked to consider whether the phrase "discrepancy arising from a difference between texts" is entirely clear.