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

Draft Charter.

Chapter VII

Intergovernmental Commodity Arrangements
Australian Delegation

In considering the draft agreed upon in London last year and later reviewed by the Drafting Committee in New York, the Australian Delegation finds itself coming to the view that some effort should be made to present a clearer picture of the provisions which shall apply to agreements or arrangements other than regulatory agreements and of the distinction between regulatory and non-regulatory agreements.

The intention of the chapter is that there should be two categories of agreements; those which have been specifically referred to in Articles 52-56 as regulatory agreements, and agreements other than regulatory.

Subject to possible drafting alterations the provisions relating to regulatory agreements are clear enough. It is more by inference than by direct statement, however, that the conditions applicable to agreements other than those described as regulatory, have to be arrived at. The heading of the whole chapter refers to "arrangements", and the general articles from 46 to 51 deal with "arrangements". Reference is then made to "regulatory agreements", and it is implied that arrangements other than regulatory agreements will be known as arrangements.

It is suggested, therefore, that there should be some re-arrangement on the following lines:-

The opening section (A) could deal with all forms of arrangements. There might then follow a particular section (B) dealing with agreements which are "regulatory". Next should come a section (C) dealing with "non-regulatory" agreements and finally there should be a "miscellaneous provisions" section (D) covering both non-regulatory and regulatory agreements. It is agreed that Section C would contain very little of substance but it is thought that it would materially assist in the clarification of the central idea of the chapter.

The attached skeleton outline is submitted for discussion at the appropriate meeting of Commission B. It could there be decided whether some such re-arrangement is called for, and the matter could then be referred to the Drafting Committee with other proposed amendments.

Having dealt with this matter of what is solely a re-arrangement of the chapter, one other alteration of substance is suggested, viz., that there be a clearer definition of non-regulatory agreements, and that there be provision for partially regulatory or minor agreements which, whilst not being considered of sufficient importance or involving a sufficient degree of regulation to be called "regulatory agreements", do warrant some form of agreement. In the present chapter it would seem that agreements having a very minor degree of regulation of trade must be placed in the regulatory category even though they are predominantly non-regulatory in character. This point is embodied in a suggested Article 51A in the attached skeleton outline. If such an article were accepted, 60(3) would be no longer required.

Skeleton Outline:-

CHAPTER VII.

Inter-Governmental Commodity Arrangements.

SECTION A.

Inter-Governmental Commodity Arrangements in General.

Article 46.

Difficulties relating to primary products.

Article 47.

Objectives of Inter-Governmental Commodity arrangements.

Article 48.

Special Commodity Studies.

Article 49.

Commodity Conferences.

Article 50.

Relations with Inter-Governmental Organisations.

Article 51.

General Principles of Inter-Governmental Commodity Arrangements.

Article 51A.

Forms of Inter-Governmental Commodity Arrangements.

An inter-governmental commodity arrangement may take two forms; either

- (i) An arrangement which to a substantial degree involves the regulation of the production, of the export or import, or of the prices of a commodity (a regulatory agreement); or
- (ii) An arrangement which does not involve regulation or which on account of the limited degree of regulation or of the limited number of substantially interested countries participating, is deemed by the Organisation not to be regulatory (a non-regulatory agreement).

SECTION B.

Inter-governmental Commodity Arrangements involving the regulation of production, trade and prices (regulatory agreements).

Article 52.

Circumstances governing the use of regulatory agreements.

Article 53.

Additional principles of inter-governmental commodity arrangements governing regulatory agreements only.

Article 54.

Administration of regulatory agreements.

Article 55.

Provision for initial terms, review and renewal of regulatory agreements.

Article 56.

Settlement of disputes.

SECTION C.

Inter-Governmental Commodity Arrangements not involving the regulation of production, trade or prices (non-regulatory agreements).

Article 56A.

Circumstances governing the use of non-regulatory agreements.

Members agree that in relation to non-regulatory agreements action shall be taken in accordance with the provisions of this chapter, except the provisions contained in Section B above.

SECTION D.

Miscellaneous provisions applicable to both regulatory and non-regulatory agreements.

Article 57.

Obligations of members regarding existing and proposed commodity arrangements.

Article 58.

General undertaking by members.

Article 59.

Exceptions to provisions relating to Inter-governmental commodity arrangements.

Article 60.

Definitions.

Chapter VII

AMENDMENTS PROPOSED BY THE AUSTRALIAN DELEGATION

(Suggested deletions are placed in square brackets.
Suggested additions are underlined)

1. Article 47 (a)

"(a) To prevent or alleviate the serious economic problems which may arise when production adjustments cannot be effected by /the free play of/ normal market forces alone /as rapidly as the circumstances require./"

Comment.

Sub-paragraph (a) of Article 47 states a principle which is elaborated more fully in Article 52(a), and the proposed amendment is designed to avoid at least part of the repetition involved.

2. Article 50

"1. (a) to submit to the Organization any relevant study of a primary commodity, and on the basis thereof, to request the Organization to convene an inter-governmental Commodity Conference.

2. The Organization shall /may/request any inter-governmental organization which it deems to be competent, to attend or take part in the work of a Study Group or of a Commodity Conference."

3. Article 51a

The text of a new article, numbered for convenience Article 51A, is given in the general notes on the chapter.

4. Article 54.

"7. Each Commodity Council shall make periodic reports to the Organization on the operation of the agreement which it administers. In addition, it shall make such special reports as the Organization may specify or as the Council itself considers to be of value to the Organization. Such reports shall also be made available immediately to any other inter-governmental organization having a particular responsibility for, or interest in, the commodity concerned."

Comment. Many of the governments represented on the Preparatory Committee on Trade and Employment are members of the Food and Agricultural Organisation and of other inter-governmental organisations which have particular responsibilities and functions in relation to primary and other commodities.

It is possible that without full consultation between such organisations and I.T.O. duplication of effort may result. Furthermore such reports would have a maximum value if made available immediately to inter-governmental organisations having functions or responsibilities in the field of agricultural and commodity policy.

5. Article 55.

"~~No~~ Regulatory agreements ~~Agreement~~ shall remain in force for not more than five years, unless renewed, and no renewal shall be for a longer period than five years.

~~Renewal and termination of such agreements shall be subject to the procedures established therein and renewed agreements shall conform to the principles of this Chapter.~~ Regulatory agreements may ~~shall also~~ include provision for the withdrawal of any party. Periodically, at intervals
.....of the Commodity Council."

Comment.

The suggested alteration of the first sentence is designed merely to word it a little less negatively.

The deletion of the second sentence is advocated on the grounds that it is unnecessary; it seems that any regulatory agreement must make provision for its termination - which could of course include termination by common consent - or for its renewal, and Articles 51, 52, 53 and 57 appear to ensure that any renewed agreement will conform to Chapter VII.

The third alteration is proposed because it is considered the inclusion of such a provision in the terms of any particular regulatory agreement should be optional.

Note:- In respect of the second last sentence of Article 55 ("Moreover, a regulatory agreement or shall terminate it") no amendment is proposed at this stage, but clarification is desired of the meaning and significance of the sentence. In the view of the Australian Delegation, as it stands it may be open to several interpretations.

6. Article 56A

The text of a new article consequential on the suggested re-arrangement of the Chapter is given in the general notes on the Chapter.