

SIXTH COMMITTEE: PURPOSES AND ORGANIZATION

PRELIMINARY ANNOTATED DRAFT AGENDA

INTRODUCTION

1. This Annotated Draft Agenda has been prepared on the basis of amendments submitted to the Secretariat by delegations up to 11.45 a.m. on Tuesday, 2 December 1947. The document will be revised as further amendments, if any, are submitted.
2. Square brackets indicate that it is proposed to omit from the Draft Charter those words contained in the brackets and underlining indicates that it is proposed to insert the words underlined.

ANNOTATED AGENDA

CHAPTER VII - INTERNATIONAL TRADE ORGANIZATION

Section A - Structure and Functions

Article 68 - Membership

A. Notes

1. The Preparatory Committee considered a suggestion to add to Article 68 provisions regarding the effect of suspension of, or expulsion from, membership in the United Nations upon membership in the Organization. It was agreed that, in view of the complexity of the issues involved and the late stage at which the suggestion was made, this question should be deferred until the World Trade Conference by which time governments would have been able to study it fully.
2. The delegation of France found itself able to accept paragraph 3 only on the condition that it could not be applied to Germany, a part of Germany or an Occupation Zone in Germany.
3. Obviously the rights and obligations of any separate customs territory of the type referred to in paragraph 3 which did not become a full Member as a result of decisions taken at the World Trade Conference and which applies under paragraph 3 of this Article for admission to the Organization, will have to be determined by the Conference of the Organization when the application is made, and the final draft of the Charter must so provide.

B. Amendments Relating to the Whole of Article 68

1. The delegation of Burma proposes the following text for Article 68:

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"1. The original Members of the Organization shall be those States and separate customs territories invited to the United Nations Conference on Trade and Employment whose Governments accept this Charter by194... in accordance with paragraph 1 of Article 98, or, if this Charter shall not have entered into force by194..., those States and separate customs territories whose Governments agree to bring this Charter into force in accordance with the provision in paragraph 2 of Article 98.

"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. The following separate customs territories, though not responsible for the formal conduct of their diplomatic relations, shall be admitted to the Organization on such terms as may be determined:

(1) any separate customs territory invited to the United Nations Conference on Trade and Employment upon acceptance of the Charter on its behalf by the competent Member in accordance with paragraph 2 of Article 99;

[11] 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 paragraph 2 of Article 99, upon its becoming thus autonomous.

"4. Any separate customs territory admitted to the Organization under paragraph 3 of this Article which is accorded full voting rights shall thereupon be a Member of the Organization."

"5. 4. The Conference shall determine the conditions upon which membership rights and obligations shall be extended to Trust Territories administered by the United Nations and to the Free Territory of Trieste."

2. The delegation of Burma explains the amendment it has proposed as follows:

"The separate customs territories which are present at this Conference are signatories to the Final Act of the General Agreement
/on Tariffs

on Tariffs and Trade and if they apply the Agreement provisionally they will be represented at meetings of CONTRACTING PARTIES. (Articles XXV and XXXII of General Agreement). However, according to Articles 68 and 81 of the Draft Charter these separate customs territories will not be on the Tariff Committee. There is still another confusion in paragraph 2 of Article 98 when in the proviso it is stated that any of the Governments applying the General Agreement on Tariffs and Trade may, upon conditions to be agreed between them, bring this Charter into force. Such Governments may include any of the separate customs territories which have signed the Final Act.

"The separate customs territories which are signatories to the Final Act of the General Agreement have been invited to this Conference on the strength of their participation in trade negotiations in Geneva. They are present at this Conference independently of the metropolitan country. The metropolitan country is not responsible for their action in this Conference. Hence it is only equitable that these separate customs territories should become Members of the Organization."

C. Amendments Relating to Parts of Article 68

Paragraph 3

The delegation of Pakistan proposes to add the words "by the Conference" in the fourth line of paragraph 3 between the words "Organization" and "on such terms".

Paragraph 5

The delegation of Italy proposes to delete the words "and to the Free Territory of Trieste".

Article 69 - Functions

A. Notes

The Preparatory Committee noted that the deletion of the mention of specific classes of such nationals and enterprises in sub-paragraph (c) (i) should not be taken as indicating that these classes are not covered in the broad language of the text. Thus such language would cover treatment of, for example, commercial travellers, and foreign creditors in bankruptcy, insolvency or reorganization.

B. Amendments Relating to Parts of Article 69

1. The delegation of Argentina proposes that the words "and general economic development" at the end of sub-paragraph (a) should be amended to read "and general social-economic development".

/2. The delegation

2. The delegation of Italy proposes to insert between (i) and (ii) of sub-paragraph (c) a new paragraph reading as follows:

"to facilitate the reaching of a sound and suitable level of economic activity also through compensation of demographic disequilibria between different countries."

Proposal to Insert a New Article 70

The delegation of Italy proposes that the following article should be inserted between the present Articles 69 and 70:

"In the exercise of its functions the Organization shall avoid that a Member could suffer, in any manner, an unfair injury."

Section B - The Conference

Article 72 - Voting

A. Notes

With reference to alternatives B and C, attention is directed to the two formulae for weighted voting set out in the Appendix to the Report of the Preparatory Committee. Formula A was suggested by the delegation of the United Kingdom while Formula B was suggested by the delegation of the United States. Paragraph 3 of the Appendix reads as follows:

"The delegations who proposed the formulae set out above submitted the following tables showing the results of their application. The statistical material used in these tables was the best available to these delegations at the Second Session. More accurate material will be supplied to the World Conference by the statistical services of the United Nations."

In this connection attention is directed to document E/CONF.2/4. The Secretariat intends to issue a revision of this document in the near future.

B. Amendments Relating to the Whole of Article 72

1. The delegation of Pakistan suggests that alternatives B and C should be deleted.
2. The delegation of the Kingdom of the Netherlands proposes that Article 72 should read as follows:

"1. Each Member of the Organization 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 a Member may request a second vote if the number of votes cast is less than half of the Members of the Organization. The decision reached on the second vote shall be final whether or not the majority of votes comprises more than half of the Members of the Organization."

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3. The delegation of Argentina proposes to delete alternatives B and C.

Article 74 - Powers and Duties

A. Notes

1. The delegation of Chile reserved its position at the Preparatory Committee regarding the first sentence of paragraph 3 insofar as it relates to Article 15.
2. The delegation of Canada reserved its position on the proviso to paragraph 6.

B. Amendments to Parts of Article 74

Paragraph 2

The delegation of Pakistan proposes to add the words "by a majority of two-thirds of the Members present and voting" after the word "assigned" in the first line of this paragraph.

Section C - The Executive Board

Article 75 - Composition of the Executive Board

A. Notes

1. The Preparatory Committee noted that, with reference to paragraph 1 (a) of alternative A, if the Customs Union of Belgium, Luxembourg and the Netherlands as such, should not decide to appoint a representative on the Board, Luxembourg would fall under paragraph 1 (d).
2. The Preparatory Committee was not able to examine fully the conception of giving membership in the Board to customs unions and reported that this matter should be considered more thoroughly by the World Conference.

B. Amendments to the Whole of Article 75

1. The delegation of Pakistan suggests that the text of Article 75 should read as follows:

- "1. The Executive Board shall consist of one-third of the total number of Members of the Organization elected at an annual general meeting.
- "2. The term of the office of the members shall be one year.
- "3. All members of the Executive Board shall be elected by rotation.
- "4. No Member shall be eligible for re-election a second time until all Members have had their one term of office.
- "5. If at any time any Member ceases to be a Member of the Organization he shall cease to be a member of the Executive Board."

2. The delegation of France proposes that the text of Article 75 should read as follows:

- "1. Subject to the provisions of paragraph 6 of this Article, the Executive Board shall consist of eighteen Member of the Organization.

/"2. Argentina,

"2. Argentina, Brazil, Canada, China, France, India, the United Kingdom, the Union of Soviet Socialist Republics, the United States of America and either Belgium and the Netherlands alternating every three years or the Customs Union of Belgium, Luxembourg and the Netherlands shall each be entitled to designate a representative on the Board.

"3. The other members of the Board shall be elected by the Conference by a vote of a majority of two-thirds.

"4. One-third of the Members provided for by paragraph 3 shall be elected each year for a term of three years. Retiring members will be immediately eligible for re-election. At the first election one-third of the Members provided for by paragraph 3 will be elected for one year, one-third for two years and the remaining third for three years."

3. The delegation of Argentina proposes to delete alternatives A and C.

Section E - The Tariff Committee

Article 81 - The Tariff Committee

A. Notes

The Preparatory Committee did not draft texts for paragraphs 3 and 4 of Article 81 which relate to the voting power of each member of the Committee and to the majority of votes required for decisions of the Committee respectively as it considered that these paragraphs would have to be drafted after the article relating to voting in the Conference had been finally determined.

B. Amendments Relating to Parts of Article 81

Paragraph 1

The delegation of Peru proposes to delete the words "and determination".

Article 83 - The Staff

The delegation of Argentina proposes that the first sentence of paragraph 1 should be amended as follows:

"1. The Director-General shall have authority to appoint/ Deputy Directors-General shall be appointed by the Executive Board upon the recommendation of the Director-General in accordance with regulations approved by the Conference."

CHAPTER VIII - SETTLEMENT OF DIFFERENCES - INTERPRETATION

Notes to the Whole of Chapter VIII

The Preparatory Committee pointed out that a limited time had been devoted to the study of the means of providing for interpretation of the Charter and for the settlement of difference among Members and between

/Members

Members and the Organization. Therefore the Preparatory Committee recommended that this subject should receive early and full re-examination by the World Trade Conference and the drafts contained in its Report were prepared on the assumption that this course would be followed.

Article 90 - Reference to the Organization

A. Notes

The delegation of the United Kingdom reserved its position on paragraph 2.

B. Amendments Relating to Parts of Article 90

Paragraph 1

The delegation of South Africa proposes the following amendment to the first sentence of paragraph 1:

"1. If the matter is not satisfactorily adjusted within a reasonable time [or if it falls within Article 89 (c),] it may, if the representations or proposals refer

(a) to any obligation which a Member has assumed pursuant to Article 12; or

(b) to exceptions which the Organization has granted pursuant to the provisions of Article 13, 14 or 15; or

(c) to any obligations which a Member has assumed under Chapter IV or Chapter V or to any obligations which a Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV,

be referred to the Executive Board or, with the approval of the Executive Board, directly to the Conference."

Paragraph 2

The delegation of the United Kingdom proposes to amend paragraph 2 as follows:

"2. The Executive Board may refer the matter, with the consent of the Members concerned, to arbitration upon such terms as may be agreed between the Member and such Members provided that
(a) the Members concerned are not more than three in number, and
(b) the matter is not one which must under the provisions of the Charter be referred to the Organization for decision."

Article 91 - Reference to the International Court of Justice

Notes

The delegation of Australia reserved its position on paragraph 2.

Article 92 - Miscellaneous Provisions

The delegation of Argentina proposes to amend paragraph 1 as follows:

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"1. For the purposes of the interpretation of this Charter under the provisions of this Chapter, the English, and French and Spanish texts shall be authoritative."

CHAPTER IX - GENERAL PROVISIONS

Article 93 - Relations with Non-Members

A. Notes

1. The Preparatory Committee transmitted these three texts to the World Conference, without expressing any judgment concerning the merits of one proposal as against another, in order to assist the World Conference in determining in the light of all relevant circumstances, the text to be incorporated in the Charter governing relations with non-Members.
2. Some question was raised as to the status of a Member of the United Nations if it should fail to become a Member of the Organization and to the status of a country not eligible for membership in the Organization. The World Conference may wish to seek expert opinion as to whether, under these circumstances, any of the drafts would be in conflict with the obligations of Members of the United Nations.
3. In this connection the Preparatory Committee called the attention of the World Conference to the definition of a "non-Member" in paragraph 7 of alternative B and to the words "although qualified to do so" in paragraph 3 of alternative C which would exclude from the scope of all or some of the provisions of the Article non-Member countries which were not qualified for Membership. The World Conference may wish to consider whether these particular passages should be retained or deleted in the light of the resolution regarding Spain which the General Assembly adopted on 12 December 1946.

B. Amendments Relating to the Whole of Article 93

1. The delegation of Belgium proposes that Article 93 should read as follows:
 - "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 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

"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."

/2. The delegation

2. The delegation of Belgium makes the following remarks upon its proposal:
 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 advantage, 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.
 7. 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.
3. The delegation of Pakistan proposes to delete Alternatives B and C.
- C. Amendments Relating to Parts of Article 93

The delegation of Argentina states that Alternatives B and C are unacceptable to it but Alternative A is acceptable subject to the deletion of the proviso to paragraph 1 and paragraphs 2 and 3.

Article 94 - General Exceptions

The delegation of Australia makes the following comment upon Article 94:

/1. It appears

1. It appears to the delegation of Australia that, in view of the importance of paragraph (b) (ii) of Article 94 the intention of the Preparatory Committee in this regard should be made perfectly clear.
2. Doubts are felt as to whether the words "for the purpose of supplying a military establishment" are sufficiently explicit without interpretative comment. These words, it is considered, are capable of being interpreted as applying merely to a military establishment maintained or controlled by a Member country imposing a restriction on exports. It may, however, be necessary to consider whether a particular product or products are intended for use by a military establishment maintained or controlled by another country. For example, before the last war Australia found it necessary to prohibit the export of iron ore to a particular foreign country for the reason that it was being used for military purposes and that the Australian product might be used in military action against Australia. Events proved that this action was fully justified. It is therefore suggested that this Conference should approve the interpretation of 94 (b) (ii) that the words "a military establishment" include such establishments maintained by any other country as well as those maintained by the member itself and that this interpretation should be included in the records of the Conference.
3. Again, in the course of the Geneva Conference the delegation of Australia questioned whether the wording of Article 94 (b) (ii) could be interpreted as applying to any goods and materials and is particular raw materials used for the production of goods for military purposes. It was agreed that this was the intention of the provision and the inclusion of the words "directly or indirectly" was accepted by the Conference. This amendment partly met the Australian delegation's viewpoint, but a reservation was maintained on this sub-paragraph pending further consideration. It is now suggested that this Conference should endorse the interpretation approved at Geneva, that this sub-paragraph covers raw materials such as iron ore (the example mentioned above) or any other goods or materials used directly or indirectly for military purposes and that this endorsement should be included in the records.
4. If the suggestions embodied in paragraphs 2 and 3 above are approved and suitably recorded the delegation of Australia will be is a position to withdraw its reservation to Article 94 (b) (ii).

Article 98 - Entry into Force and Registration

The delegation of Burma proposes to insert the words "and each separate customs territory invited to the United Nations Conference on Trade and

/Employment"

Employment" between the words "State" and "accepting" in paragraph 1.

CHAPTER I - PURPOSE AND OBJECTIVES

Article 1

1. The delegation of Italy proposes that paragraph 1 should read as follows:

"1. To assure a large and steadily growing volume of real income and effective demand, to assure the best and largest employment of existing manpower even through its transfer between different countries, to increase the production, consumption and exchange of goods, and thus to contribute to a balanced and expanding world economy.

2. The delegation of France proposed the insertion of a new paragraph 4 between the present paragraphs 4 and 5 of Article 1, reading as follows:

"To achieve progressively greater freedom of trade in increasingly extensive economic zones by promoting the maintenance, establishment and development of economic units wider in character than those determined by political frontiers between neighbouring countries or countries which are closely related economically."

3. The delegation of Argentina proposes the insertion of a new paragraph between the present paragraphs 5 and 6 of Article 1, reading as follows:

"6. To further the recognition of the worker's right:

- (a) to work;
- (b) to receive a fair wage;
- (c) to receive training;
- (d) to proper working conditions;
- (e) to conditions not injurious to health;
- (f) to comfort and well-being;
- (g) to social security;
- (h) to family protection;
- (i) to economic advancement, and
- (j) to defend his professional interests."
