

United Nations

Nations Unies

**ECONOMIC
AND
SOCIAL COUNCIL**

**CONSEIL
ECONOMIQUE
ET SOCIAL**

RESTRICTED

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ORIGINAL: ENGLISH

DRAFTING COMMITTEE OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

TEXT OF ARTICLES TENTATIVELY AGREED AT THE
TWENTY-FIRST MEETING

Article 82

International Responsibilities of Personnel of the Organization

1. The responsibilities of the members of the Commissions provided for in Article 72, of the Director-General, of the Deputy Directors-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. Each Member of the Organization undertakes to respect the international character of the responsibilities of these persons and not to seek to influence them in the discharge of their duties.

Article 83

Legal Capacity of the Organization

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and for the fulfilment of its purposes.

Article 84

Privileges and Immunities of the Organization

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

/2. Representatives

2. Representatives of the Members of the Organization and its officials shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.
3. The Conference may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 and may propose conventions to the Members for this purpose.

Article 85

Amendments to the Charter

1. Subject to the provisions of paragraph 2, amendments to this Charter shall become effective upon receiving the approval of the Conference by the affirmative votes of two-thirds of its members.
2. Those amendments, which involve new obligations on the part of the Members of the Organization, shall take effect upon acceptance on the part of two-thirds of the Members for each Member accepting the amendments, and thereafter for each remaining Member on acceptance by it. In such cases the Conference may determine that any Member, which has not accepted the amendment, within a period specified by the Conference, shall thereupon be obliged to withdraw from the Organization. In the absence of a determination that a contracting state not accepting an amendment shall be obliged to withdraw from the agreement, such contracting state shall, notwithstanding the provisions of paragraph (ii) of Article 89, be free to withdraw from the Agreement upon the expiration of six months from the day on which written notice of such withdrawal is received by the Secretary-General of the United Nations.
3. The Conference shall, by the affirmative votes of two-thirds of its Members, adopt rules of procedure for carrying out the provisions of this Article.

Article 86

Interpretation and Settlement of Disputes

1. Texts of this Charter in the official languages of the United Nations shall be regarded as equally authoritative.

2. Any question

2. Any question or difference concerning the interpretation of this Charter or arising out of its operation shall be referred to the Executive Board for a ruling thereon. The Executive Board may decide either to give a ruling on the matter itself or to refer it, with the consent of the parties, to arbitration upon such terms as may be agreed by the parties. Any ruling of the Executive Board shall, upon the request of any Member directly affected or, if the ruling is of general application, upon the request of any Member, be referred to the Conference.

3. Any justiciable issue arising out of a ruling of the Conference with respect to the interpretation of sub-paragraphs (c), (d), (e), or (k) of Article 37 or of paragraph 2 of Article 59 may be submitted by any party to the dispute to the International Court of Justice, and any justiciable issue arising out of any other ruling of the Conference may, in accordance with such procedures as the Conference shall establish, be submitted by any party to the dispute to the International Court of Justice. The Members accept the jurisdiction of the Court in respect of any dispute submitted to the Court under this Article.

4. The organization may, in accordance with paragraph 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 its activities.]

Article 87

Miscellaneous Provisions

Each Member undertakes to contribute promptly to the Organization its share of the Organization's expenses as apportioned by the Conference. A Member of the Organization, which is in arrears in the payment of its financial contributions 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

if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Article 88

Entry into Force

1. The original of this Charter, as set forth in the Final Act of the United Nations Conference on Trade and Employment, shall be deposited with the Secretary-General of the United Nations, who will furnish certified copies thereof to all interested governments.
2. Each government 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 other Members of the United Nations which were not represented at that Conference, of the date of deposit of each instrument of acceptance and of the date on which this Charter enters into force under paragraph 3.
3. This Charter shall enter into force 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 acceptance pursuant to paragraph 2, shall reach twenty, and the acceptance of each other accepting government shall take effect on the sixtieth day following the day on which the instrument of such acceptance is deposited provided that, if this Charter shall not have entered into force by 31 December 194 , any of the governments which have made effective the General Agreement on Tariffs and Trade dated, 194 , together with any other governments represented at the United Nations Conference on Trade and Employment, may agree to bring this Charter into force among themselves in accordance with arrangements which they may agree upon. Any instrument of acceptance deposited with the Secretary-General of the United Nations shall be taken as covering both procedures for bringing this Charter into force, unless it expressly provides to the contrary or is withdrawn.

/4. Each government

4. Each government accepting this Charter does so in respect of its metropolitan territory and such other territories for which it has international responsibility with the exception of those territories which are self-governing in respect of matters provided for by the Charter. Each Member shall notify the Secretary-General of the United Nations of its acceptance of the Charter on behalf of any such self-governing territory willing to undertake the obligations of the Charter, and upon such notification the provisions of the Charter shall become applicable to that territory.

Article 82

Withdrawal and Termination

1. Subject to the provisions of paragraph 3 of Article 24 and paragraph 2 of Article 35, any Member of the Organization may withdraw from the Organization, either on its own behalf or on behalf of an overseas territory, which is self-governing in the respect mentioned in paragraph 4 of Article 80, at any time after the expiration of three years from the date of the entry into force of this Charter under the provisions of Article 80, by written notification addressed to the Secretary-General of the United Nations in accordance with the provisions of paragraph 2. The Secretary-General will immediately inform all other Members of the Organization.
2. The withdrawal shall take effect six months from the date of the receipt of the notification by the Secretary-General provided that the notification may be withdrawn at any time during that period.
3. This Charter may be terminated at any time by agreement of three-fourths of the Members of the Organization.

NOTES

Article 85, paragraph 1

The Delegate for France pointed out that he had received information /and instructions

and instructions from his Government to the effect that paragraph 1 in its present form is unacceptable with the new French Constitution; he therefore must reserve France's position in regard to this paragraph which will have to be redrafted in Geneva to reconcile it with the provisions of the new French Constitution. It was decided to note this reservation in the Committee's final report.

Article 86

The Delegate for the United Kingdom, with reference to document E/PC/T/C.6/W.63 entitled: "Suggested Redraft of Articles 35 (2) and 86 by the Delegation of the United Kingdom - Article 86 - Nullification, Impairment and Disputes", explained the position of the United Kingdom with respect to this redraft as follows: the United Kingdom holds that it is imperative for the Organization to be master in its own house and to be able to make final determinations of a nature provided for in the Charter. These determinations call for the exercise of discretion and for rulings on economic subjects on the basis of economic reasoning. In this respect there exists a wide difference between normal commercial treaties, whose character is basically static, while the character of the Charter is intrinsically dynamic. The determinations and rulings of the Organization do not form a legitimate object for the review of any court of justice or of the economic chamber of such a court. Judgments of a court call necessarily for the exercise of legal judgment, but not for independent economic evaluation. The term "justiciable issues" in Article 86 of the London Report is quite unclear. According to the views of the United Kingdom, the subjects of nullification and impairment and of interpretation and settlement of disputes belong together, and for this reason the United Kingdom draft of Article 86 has fused the provisions of Article 35, paragraph 2, and Article 86.

The Committee decided that this was a substantive matter of the highest importance which would have to be referred to the Second Session of the

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Preparatory Committee. For this reason it was agreed to put paragraphs 2-4 inclusive of the London draft into square brackets and to include in the final report of the Committee a note on the United Kingdom position on the basis of the precis which will be submitted by the Delegate for the United Kingdom to the Secretariat.

Article 88, paragraph 3

The Delegate for the United Kingdom observed that he prefers the original text on this subject as contained in Article 78 of the United States Draft Charter. The Committee decided to approve temporarily the text of paragraph 3 in the formulation of the London Report, but to note in its report that the differences between the two texts had been discussed and that there existed a body of opinion for the re-insertion of the text of the United States Draft Charter.

Paragraph 4

The Committee decided to refer the question of the re-formulation for overseas territories to the Legal Drafting Sub-Committee for further consideration.
