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

CHAPTER VII

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General Comments

1. When Article 36 is dealt with the provisions of Chapter VII, which would allow non-Members to participate in commodity arrangements will need to be taken into consideration.
2. The delegate for Brazil reserved the position of his Government on the whole of Chapter VII insofar as its operation might interfere with the production of primary commodities for home consumption.
3. In the Report of the First Session (Chapter V, Section A, paragraph 3, page 19) the Drafting Committee was requested to examine the use of the terms "primary", "agricultural", "mineral", "commodity" and "product" throughout the Charter, in order to ensure uniformity and consistency in their application. The Drafting Committee has acted accordingly and it has found that the terms were properly used throughout this Charter except in some cases and then due amendments have been made. A further note in this respect will be found in the commentary to Article 60.
4. Chapter V, Section D, paragraph 5, page 21, of the Report of the First Session, referred to the Drafting Committee suggestions concerning the allocation of certain functions among the various organs of the Organization. These suggestions are taken into account in the drafting of Article 77 (Functions of the Commodity Commission). However, it was not felt necessary to specify in great detail the allocation of functions as given on page 21 of the Report.

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SECTION A - INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS
IN GENERAL

Article 46

Difficulties Relating to Primary Commodities

The Members recognize that the relationship between production and consumption of some primary commodities may present special difficulties. These special difficulties are different in character from those which manufactured goods present generally. They arise out of such conditions as the disequilibrium between production and consumption, the accumulation of burdensome stocks and pronounced fluctuations in prices. They may have serious adverse effects on the interests of producers and consumers, as well as widespread repercussions jeopardizing general policies of economic expansion.

Article 47

Objectives of Inter-Governmental Commodity Arrangements

Inter-governmental commodity arrangements may be employed to enable countries to overcome the special difficulties referred to in Article 46 without resorting to action inconsistent with the purposes of this Charter, by achieving the following objectives:

- (a) to prevent or alleviate the serious economic problems which may arise when production adjustments cannot be effected by the free play of market forces as rapidly as the circumstances require;
- (b) to provide, during the period which may be necessary, a framework for the consideration and development of

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measures which will have as their purpose economic adjustments designed to promote the expansion of consumption or a shift of resources and manpower out of over-expanded industries into new and productive occupations;

(c) to moderate pronounced fluctuations in the price of a primary commodity above and below the level which expresses the long term equilibrium between the forces of supply and demand in order to achieve a reasonable degree of stability on the basis of remunerative prices to efficient producers without unfairness to consumers;

(d) to maintain and develop the natural resources of the world and protect them from unnecessary exhaustion; and

(e) to provide for expansion in the production of a primary commodity which is in such short supply as seriously to prejudice the interests of consumers.

Article 48

Special Commodity Studies

1. Any Member substantially interested in the production, consumption or trade of a particular primary commodity shall be entitled, if it considers that special difficulties exist or are expected to arise regarding the commodity, to ask that a study of that commodity be made.
2. Unless it resolves that a prima facie case has not been established, the Organization shall promptly invite the Members substantially interested in the production and consumption of or trade in the commodity to appoint representatives to a Study Group to make a study of the commodity. Non-Members having a similar interest may also be invited.

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3. The Study Group shall, in the light of an investigation of the root causes of the problem, promptly report its findings regarding the production, consumption and trade situation of the commodity. If the Study Group finds that special difficulties exist or are expected to arise it shall make recommendations to the Organization as to how best to deal with such difficulties. The Organization shall transmit promptly to the Members any such findings and recommendations.

Article 49

Commodity Conferences

1. On the basis of the recommendations of the Study Group or on the basis of information about the root causes of the problems agreed to be adequate by the Members substantially interested in the production, consumption or trade of a particular primary commodity, the Organization shall promptly at the request of a Member having a substantial interest, or may, on its own initiative, convene an inter-governmental conference for the purpose of discussing measures designed to meet the special difficulties which have been found to exist or are expected to arise.

2. Any Member having a substantial interest in the production and consumption of or trade in the commodity shall be entitled to participate in the Conference, and non-Members having a similar interest may be invited by the Organization to participate.

Article 50

Relations with Inter-Governmental Organizations

1. Competent inter-governmental organizations, such as the Food and Agriculture Organization, shall be entitled

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The text of Article 49 is identical to that of Article 48, but the reference to "the provisions of Article 51" has been deleted. This is because it seemed that commodity arrangements recommended by the Conference would have to conform to the principles stated in the Chapter. Furthermore, regulatory agreements would have to conform not only to the provisions of Article 51, but also to those of Article 53.

Article 49

Paragraph 3 of the text as drafted in London was deleted, because it seemed that commodity arrangements recommended by the Conference would have to conform to the principles stated in the Chapter. Furthermore, regulatory agreements would have to conform not only to the provisions of Article 51, but also to those of Article 53.

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- (a) to submit to the Organization any relevant study of a primary commodity;
 - (b) to ask that a study of a primary commodity be made.
2. The Organization 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.

Article 51

General Principles of Inter-Governmental Commodity Arrangements

Members undertake to adhere to the following principles governing the operation of all types of inter-governmental commodity arrangements:

- (a) such arrangements shall be open initially to participation by any Member on terms no less favourable than those accorded to any other country and thereafter upon such terms as may be approved by the Organization;
- (b) non-Members may be invited by the Organization to participate in such arrangements and the provisions of sub-paragraph (a) of this Article applying to Members shall apply to any non-Member so invited;
- (c) under such arrangements participating countries shall arrange for equitable treatment as between non-participating Members and participating countries affording advantages commensurate with obligations accepted by non-participating Members;
- (d) participating countries shall, in matters the subject of such arrangements, afford non-participating Members treatment no less favourable than that accorded to any

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Article 51

General Principles of Inter-Governmental
Commodity Arrangements

A change from the text as drafted at the First Session was made in the arrangement of the paragraphs; paragraphs 1 and 2 remain with minor drafting changes, as sub-paragraphs (a) and (b), new sub-paragraphs (c) and (d) have been added containing the substance of paragraphs 2 and 3 of Article 53 of the London Charter, and sub-paragraphs (e), (f), and (g) are the former paragraphs 3, 5, and 6 respectively. Paragraph 4 of the London text has been transferred from Article 51 to Article 53.

51: (c) and (d) These paragraphs have been included in this Article because the Committee was of the opinion that the provisions contained in them applied to all commodity arrangements and not to regulatory agreements alone.

51: (c) The text of the second part of this paragraph was changed in order to clarify the position of non-participating Member countries.

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non-Member which does not participate in the arrangement;

(e) such arrangements shall include provision for adequate participation of countries substantially interested in the importation or consumption of the commodity as well as those substantially interested in its exportation or production;

(f) such arrangements shall provide, where practicable, for measures designed to expand world consumption of the commodity;

(g) full publicity shall be given to any inter-governmental commodity arrangement proposed or concluded, to the statements of considerations and objectives advanced by the proposing Members, to the nature and development of measures adopted to correct the underlying situation which gave rise to the arrangement and, periodically, to the operation of the arrangement.

SECTION B - INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS
INVOLVING THE REGULATION OF PRODUCTION,
TRADE AND PRICES

Article 52

Circumstances Governing the Use of Regulatory Agreements

Members agree that regulatory agreements may be employed only when it is determined that:

(a) a burdensome surplus of a primary commodity has developed or is expected to develop, which would cause serious hardship to producers, among whom are small producers who account for a substantial portion of the total output, and these conditions cannot be corrected by normal market forces alone, in time to prevent such hardship, because characteristically, in the case of

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51: (g) After some discussion the Committee agreed to maintain the words "full publicity" on the understanding that the application of this requirement to any "proposed" arrangement would not entail publicity in regard to discussions and verbatim records before the arrangement began operating. It was also agreed to stipulate that the operation of the agreement should be given publicity periodically.

Article 52

Circumstances Governing the Use of Regulatory Agreements

52: (a) It was felt that the phrase "because characteristically,
and (b) in the case of the primary commodity concerned, a substantial reduction in price does not lead to a significant..." is only to be considered as a descriptive one and is not to be interpreted in the sense that a substantial reduction in price would be regarded as a pre-requisite for the adoption or extension of a regulatory agreement.

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the primary commodity concerned, a substantial reduction in price does not readily lead to a significant decrease in production; or

(b) widespread unemployment or under-employment in connection with a primary commodity, arising out of difficulties of the kind referred to in Article 46, has developed or is expected to develop, which would not be corrected by normal market forces alone in time to prevent widespread and undue hardship to workers,

Because characteristically, in the case of the industry concerned; a substantial reduction in price does not

readily lead to a significant increase in consumption but tends to result in the reduction of employment and because areas in which the commodity is produced in substantial quantity do not afford alternative employment opportunities for the workers involved; or

(c) the Organization finds that, for a commodity other than a primary commodity, in addition to the circumstances set forth in either (a) or (b) above, exceptional circumstances justify such action. Agreements under this sub-paragraph shall be governed not only by the principles set forth in this Chapter but also by any other

requirements which the Organization may establish.

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The Chilean delegate felt that the problems of countries with a small volume of international trade as distinct from those of small producers did not receive sufficient attention in the London text; it is particularly in such countries that hardships to a substantial part of the economy are liable to hamper the well-being of the country, even when there are no small producers. He therefore suggested the following amendment to paragraph 1 as it appears in the Charter as drafted in London:

After "serious hardship to producers" delete "among whom are small producers who account for a substantial portion of the total output" and substitute "or affecting the economy of one or more of the Member countries, which jointly or individually represent a substantial portion of the total output; or".

It was the general opinion of the Drafting Committee that, as the hardships the Chilean proposal was intended to cover would be the outcome of unemployment or under-employment, they were in fact covered by sub-paragraph (b) of Article 52.

52: (b)

It was decided to provide for the possible use of regulatory agreements not only when unemployment but also when under-employment exists.

52: (c)

The drafting change contained in sub-paragraph (c) was based on the consideration that commodity arrangements concerning non-primary products should not be easier to conclude than those for primary commodities. The London text was ambiguous and might have been interpreted to mean that arrangements for commodities other than primary commodities could be concluded without a burdensome surplus or widespread unemployment being in

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existence or expected.

Suggested Additional Paragraph:

The FAO observer raised the question as to whether the language of paragraphs 1 and 2 of Article 52 covers commodity agreements which might be desired in order to promote price stability and expanded production and consumption, as recommended for basic foodstuffs in the Report of the FAO Preparatory Commission on World Food Proposals. If not, he suggested the following changes in Article 52:

Change the present sub-paragraph (c) to sub-paragraph (d) and add a new paragraph (c) reading as follows:

(c) It is necessary to enable the producers and the governments concerned to carry forward concerted programmes for the expansion of aggregate world production and consumption of a primary commodity or".

It was recognized that the matter was one for consideration at Geneva.

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Article 53

Additional Principles Governing Regulatory Agreements

Members undertake to adhere to the following principles governing regulatory agreements in addition to those stated in

Article 51:

- (a) Members agree not to enter into any new regulatory agreement unless it has been recommended by a conference called in accordance with Article 49. Nevertheless, Members substantially interested in the production and consumption of, or trade in, a particular commodity may proceed by direct negotiation to the conclusion of an agreement, provided that it conforms to the other provisions of this Chapter, if there has been unreasonable delay in the proceedings of the Study Group or of the Commodity Conference;
- (b) such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at reasonable and stable prices remunerative to efficient producers;
- (c) under such agreements participating countries which are largely dependent for consumption on imports of the commodity involved shall, in determinations made relating to substantive matters, have together a voice equal to that of those countries largely interested in obtaining export markets for the commodity, provided that any country which is largely interested in the commodity but which does not fall precisely under either of the above categories, shall, according to its interests in the circumstances, have an appropriate voice within one or the other

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Article 53

Additional Principles Governing Regulatory Agreements

There has been a change in the arrangement of the paragraphs from the text as drafted at the First Session; paragraph 1 becomes sub-paragraph (a), sub-paragraph (b) contains the substance of former paragraph 4, sub-paragraph (c) is the reformulation of paragraph 4 of Article 51 of the London Charter and sub-paragraphs (d) and (e) are the former paragraphs 5 and 6, respectively.

53: (b) The delegate of Cuba submitted an amendment to sub-paragraph (b) which it was decided to refer to Geneva, inserting it in the text of the paragraph between square brackets. The Chilean delegate asked that a "reasonable price" should not be a price which does not cover the costs of production.

53: (c) 1. The transfer of this sub-paragraph from Article 51 was motivated by the fact that the equality of producers and consumers in representation and in voting was of importance only in regulatory agreements. The delegate of the United Kingdom reserved his position concerning this transfer and the delegates of Australia and New Zealand were of the opinion that the whole text of the sub-paragraph should be within square brackets because the transfer from Article 51

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category without altering the equality between the two;

(d) such agreements shall, with due regard to the need during a period of change for preventing serious economic and social dislocation and to the position of producing areas which may be suffering from abnormal and temporary disabilities, make appropriate provision to afford

increasing opportunities for satisfying world requirements from sources from which such requirements can be supplied in the most effective and economic manner;

(e) participating countries shall formulate and adopt a programme of economic adjustment believed to be adequate to ensure substantial progress toward solution of the problem within the time limits of the agreement.

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constituted a substantive change.

2. There was a substantial agreement in the Committee in favour of clarifying the text of that part of sub-paragraph (c) which pertains to the position of countries whose foremost interest is in the production and consumption of a commodity, but not in its trade. It was thought that in this respect the London text was subject to misinterpretation and a new text was devised in order to avoid the possibility of the existence of a third group of countries; the producers-consumers, who in matters of voting might upset the balance in favour of either importers or exporters. Under the present wording, the producers who at the same time are consumers may in matters of representation and voting be included according to their interests with either importers or exporters. The delegate of the United Kingdom expressed doubt as to the effect of the insertion in the text of the following expression: "according to its interests in the circumstances" and "within one or the other category without altering the equality between the two", and suggested that they be put between square brackets.

3. For sub-paragraph (c) the delegate for Chile proposed the text of sub-paragraph (4) of Article 51 of the text as drafted at the First Session:

"In such arrangements participating countries,.....
under either of the above classes, shall have an
appropriate voice;"

with the addition of:

"Provided also that said consuming or exporting countries
will not oppose the adoption of necessary measures to

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Agenda of the meeting is as follows:

1. Report of the Secretary

2. Report of the Treasurer

3. Report of the Committee

4. Report of the Executive Committee

5. Report of the Finance Committee

6. Report of the Publicity Committee

7. Report of the Social Committee

8. Report of the Sports Committee

9. Report of the Cultural Committee

10. Report of the Health Committee

11. Report of the Welfare Committee

12. Report of the Education Committee

13. Report of the Environment Committee

14. Report of the Women's Committee

15. Report of the Youth Committee

16. Report of the Old People's Committee

17. Report of the Sports and Recreation Committee

18. Report of the Arts and Crafts Committee

19. Report of the Music Committee

20. Report of the Drama Committee

21. Report of the Book Club Committee

22. Report of the Gardening Committee

23. Report of the Chess Committee

24. Report of the Bridge Committee

25. Report of the Table Tennis Committee

26. Report of the Badminton Committee

27. Report of the Lawn Tennis Committee

28. Report of the Golf Committee

29. Report of the Football Committee

30. Report of the Hockey Committee

31. Report of the Netball Committee

32. Report of the Rugby Committee

33. Report of the Cricket Committee

34. Report of the Snooker Committee

35. Report of the Darts Committee

36. Report of the Billiards Committee

37. Report of the Bowling Committee

38. Report of the Fishing Committee

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a reasonable price increase for said product, when the price has had an appreciable decrease as compared with a prior representative period, or when current prices do not cover total production costs and would substantially affect the economy of one or more Member-countries which represent a considerable portion of the total output of said products."

The Chilean delegate felt that this proposal was not meant to be a substantive change and that the point raised by his delegation would be covered if the proposed Cuban amendment to Article 47 (c) were finally agreed. However, some delegates understood that other stipulations of the Charter covered the interests the Chilean amendment was meant to cover.

53: (e) It was felt that the phrase "substantial progress toward solution of the problem" covered cases where the agreement impeded a deterioration of the situation.

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Article 54

Administration of Regulatory Agreements

1. Each regulatory agreement shall provide for the establishment of a governing body, herein referred to as a Commodity Council.
2. Each of the countries participating in an agreement shall be entitled to have one representative on the Commodity Council. These representatives alone shall have the right to vote. Their voting power shall be determined in such a way as to conform with the provisions of sub-paragraph (c) of Article 53.
3. The Organization shall be entitled to appoint a non-voting representative to each Commodity Council and may invite any competent inter-governmental organization to nominate a non-voting representative for appointment to a Commodity Council.
4. Each Commodity Council shall have a non-voting chairman who, if the Council so requests, shall be nominated by the Organization.
5. The Secretariat of each Commodity Council shall be appointed by the Council after consultation with the Organization.
6. Each Commodity Council shall adopt appropriate rules of procedure and regulations regarding its activities, provided that they are not found by the Organization to be inconsistent with the principles and provisions of this Charter.
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

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Article 54

Administration of Regulatory Agreements

54: 6. The Cuban delegate suggested a change in the text of paragraph 6 in order to avoid the necessity for approval by the Organization of every detailed rule of procedure adopted by the Commodity Council. It was agreed by the Committee that an overall approval by the Organization was sufficient and the text was changed accordingly to allow rules of procedure and regulations adopted by the Commodity Council to stand unless the Organization decided that they conflicted with the provisions of the Charter.

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as the Organization may specify or as the Council itself considers to be of value to the Organization.

8. The expenses of a Commodity Council shall be borne by the participating countries.

Article 55

Provision for Initial Terms, Review and Renewal of
Regulatory Agreements

No regulatory agreement shall remain in force for 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 shall also include provision for withdrawal of any party. Periodically, at intervals no greater than three years, the Organization shall prepare and publish a review of the operation of each agreement in the light of the principles set forth in this Chapter. Moreover a regulatory agreement shall provide that if its operation has failed substantially to conform to the principles laid down in this Chapter, participating countries shall revise the agreement to conform to the principles, or shall terminate it. When an agreement is terminated, the Organization shall take charge of archives and statistical material of the Commodity Council.

Article 56

Settlement of Disputes

Any question or difference concerning the interpretation of the provisions of a regulatory agreement or arising out of its operation shall be discussed originally by the Commodity Council. In the absence of agreement, the question shall be referred to

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Article 55

Provision for Initial Terms, Review and Renewal of
Regulatory Agreements

On the suggestion of the Cuban delegation, it was agreed by the Committee to make explicit provision in the text for the withdrawal of Members from commodity arrangements. It was also agreed to add a reference to the possibility of terminating an agreement by mutual consent, even though the arrangement had conformed to the principles of the Chapter.

Article 56

Settlement of Disputes

The reference to Article 71 in the text as drafted at the First Session has been replaced by a reference to Article 86.

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the Commodity Commission for examination and recommendation to the Executive Board. The Executive Board shall then issue a ruling in pursuance of the provisions of Article 86.

SECTION C - MISCELLANEOUS PROVISIONS

Article 57

Obligations of Members Regarding Existing and Proposed Commodity Arrangements

1. Members shall transmit to the Organization the full text of each inter-governmental commodity arrangement in which they are participating at the time of the coming into force of their obligations under this Charter. Members shall also transmit to the Organization appropriate information regarding the formulation, provisions and operation of such arrangements. Members shall conform with the decisions made by the Organization regarding their continued participation in any such inter-governmental commodity arrangement which, after review by the Organization, shall have been found to be inconsistent with the intentions of this Chapter.
2. Members shall transmit to the Organization appropriate information regarding any negotiations, looking to the conclusion of an inter-governmental commodity arrangement, in which they are participating at the time of the coming into force of their obligations under this Charter. Members shall also conform with decisions made by the Organization regarding their continued participation in any such negotiations. The Organization may dispense with the requirement of a Study Group or a Commodity Conference, if it finds them unnecessary in the light of the negotiations.

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[The following text is extremely faint and illegible due to low contrast and noise. It appears to be a multi-paragraph commentary or report.]

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Article 58

General Undertaking by Members

Members, including Members not parties to a particular commodity arrangement, shall give the most favourable possible consideration to any recommendation by a Commodity Council for expanding consumption of the commodity in question.

Article 59

Exceptions to Provisions Relating to Inter-Governmental Commodity Arrangements

The provisions of Chapter VII shall not apply:

- (a) to inter-governmental commodity arrangements which relate solely to the equitable distribution of commodities in short supply, or to those provisions of inter-governmental commodity arrangements which appropriately relate to the protection of public morals or the protection of human, animal or plant life or health; provided, that such arrangements are not used to accomplish results inconsistent with the objectives of Chapter VI or Chapter VII. Members shall not participate in such arrangements if they involve the regulation of production, trade or prices, unless authorized or provided for by a multilateral convention subscribed to by a majority of the countries affected or unless operated under the Organization;
- (b) to international fisheries or wildlife conservation agreements with the sole objective of conserving and developing these resources or to agreements relating to the purchase and sale of a commodity falling under Section E of Chapter V; and

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Article 59

The Committee was of the opinion that arrangements relating solely to the equitable distribution of commodities in short supply and mentioned in this Article should be short-term arrangements of a transitional character.

59: (b)

In order to ensure that the provisions of Chapter VII should not apply to conservation agreements relating to wildlife and fisheries and to agreements made in accordance with the provisions of Section E of Chapter V, it was decided to group these agreements with the exceptions contained in this Article.

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(c) to arrangements relating to fissionable materials, to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on for the purpose of supplying a military establishment, or, in the time of war or other emergency in international relations, to the protection of the essential security interests of a Member.

Article 60

Definitions

1. For the purposes of this Chapter, the term "primary commodity" means any product of farm, forest or fishery, or any mineral, which enters world trade in substantial volume in a form customarily called primary, and may include such a product on which minor processing has been performed in preparation for export. The term may also cover a group of commodities, of which one is a primary commodity as defined above and the others are commodities (whether primary or non-primary) which are so closely related to the other commodities in the group that they can conveniently be dealt with in a single arrangement.
2. For the purposes of this Chapter, the term "Member" or "non-Member" shall be taken to mean a Member or non-Member of the Organization with its dependent territories. If a Member or non-Member and its dependent territories form a group, of which one or more units are mainly interested in the export of a commodity and one or more in the import of the commodity, there may be either joint representation for all the associated territories or, where it is so desired, separate representation for the territories mainly interested in export and separate representation for the territories mainly interested in import.

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Article 60

Definitions

60:1

1. Acting upon the instructions of the Preparatory Committee, the Drafting Committee made more specific the definition of a primary commodity, and particularly so as to make clearer the inclusion of products closely related to primary commodities within the scope of commodity arrangements.
2. The delegate of Norway reserved the position of his Government regarding the inclusion of fishery products.

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3. A regulatory agreement is an inter-governmental commodity arrangement involving regulation of the production, export or import of a commodity or regulation of prices.

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60:3

On the suggestion of the United States delegation, it was decided to delete the definition of inter-governmental commodity arrangements because the statement contained in paragraph 3 of the London Charter was too broad and furthermore the nature of inter-governmental commodity agreements was implicit in the Chapter.
