

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

CWP/17

26 September 1955

Special Distribution

Working Party on Commodity Problems

DRAFT OF ARTICLES VI TO IX

Prepared by the Drafting Group

ARTICLE VI

Consideration of Questions concerning the
Conformity of an Arrangement with the
Provisions of this Agreement

1. (a) In any case in which Signatories do not represent a majority of the participants in a negotiating conference leading to a commodity arrangement, the Signatories participating in the negotiating conference before they accept the arrangement shall submit the text of the arrangement to the Standing Committee. The Standing Committee shall deliver an opinion within thirty days either that it sees no objection to the arrangement or that it does not conform with the provisions of the Agreement. No Signatory shall accept such an arrangement before the Standing Committee gives its opinion. Pending the Standing Committee's opinion or if an adverse opinion is given, no Signatory shall accept the arrangement.
2. Where circumstances make it impracticable to conform to the provisions of Article III and IV, a negotiating conference may draw up an arrangement which conforms as closely as possible with the provisions of those Articles and with the general principles and objectives underlying this Agreement. Any such arrangement shall be submitted to the Assembly before it enters into operation, and no Signatory shall accept the arrangement unless it is approved by the Assembly. Furthermore, a Signatory or non-Signatory Government which is also a contracting party to the General Agreement on Tariffs and Trade shall participate in any such arrangement only if it has also been submitted to the CONTRACTING PARTIES to that Agreement, in accordance with the final phrase of paragraph 1(h) of Article XX of that Agreement and has not been disapproved by them.
3. If an arrangement has not been submitted to the Standing Committee or the Assembly under the provisions of paragraph 1 or 2, any Signatory whose interests represent a considerable part of world production or consumption of or trade in a commodity which is the subject of an arrangement or whose economy is dependent to an important extent on that commodity may before the arrangement comes into force ask the Standing Committee for a decision as to whether the arrangement conforms with the provisions of this Agreement. The Standing Committee shall examine the

matter promptly. If it finds that the arrangement does not conform with the provisions of this Agreement, it may recommend such changes as it may consider necessary in order to bring the arrangement into conformity. The negotiating conference shall so amend the arrangement if this is possible; until the arrangement is so amended, no Signatory shall accept the arrangement, and any Signatory which has already accepted it shall immediately withdraw from it.

ARTICLE VII

Consideration of Representations concerning the Operation of a Commodity Arrangement

1. Any Signatory or any non-Signatory participant in a commodity arrangement who considers that the arrangement is being operated in a manner that is not in conformity with the provisions of this Agreement may ask the Standing Committee to make a finding in the matter.
2. The Standing Committee shall promptly examine the question and may make such recommendations to the council of the arrangement as it considers necessary in order to bring its operation into conformity with this Agreement. Unless the arrangement is so amended, any Signatory participating in it shall withdraw from it.

ARTICLE VIII

Commodity Councils and non-participating Signatories

1. Where the council of a commodity arrangement considers that the action of a non-participant Signatory is frustrating the arrangement, the council may, with a view to a satisfactory adjustment of the matter, make written representations or proposals to the non-participant which shall give sympathetic consideration to them. A non-participant Signatory shall not be considered to frustrate a commodity arrangement by any action which is consistent with normal commercial practice.
2. Where a non-participant Signatory considers that the participants are operating an arrangement in such a way as to inflict commercial injury upon it and satisfies the Standing Committee that such commercial injury is substantial, the non-participant may, with a view to a satisfactory adjustment of the matter, make written representations or proposals to the council of the arrangement.
3. Where no satisfactory solution is reached as a result of the representations or proposals referred to in paragraphs 1 or 2, the Assembly may convene a special conference of the parties concerned with the object of enabling them to reach a satisfactory solution by further consultations. The Assembly may invite other Signatories to such a conference if this course seems likely to facilitate a satisfactory solution.

ARTICLE IX

Cooperation with Other Intergovernmental Organizations

1. The Assembly shall, as soon as practicable after this Agreement comes into force, make appropriate arrangements with bodies and agencies of the United Nations having responsibilities in the field of primary commodities where it finds this desirable in order to avoid unnecessary duplication of activities. Such arrangements, where appropriate, shall include the conditions under which the Assembly will:

- (a) provide for the examination in the manner described in Article II of statements of special difficulties submitted by such bodies and agencies;
- (b) recognize study groups established by them as study groups for the purposes of paragraphs 2 and 3 of Article II;
- (c) convene negotiating conferences at their request, or recognize negotiating conferences convened by them as negotiating conferences for the purposes of Article III, or recognize commodity arrangements resulting from such a negotiating conference as complying with the provisions of Article III, and
- (d) invite them to send observers to attend study groups and negotiating conferences.

2. The Assembly may, where it considers this desirable for the same purpose, make similar arrangements with other intergovernmental organizations.

3. Notwithstanding the provisions of paragraph 1(a) of Article XI, the Assembly may, at the invitation of existing study groups or of the councils of arrangements, perform in regard to them any of the functions which it shall perform in regard to study groups convened, or commodity arrangements concluded after the coming into force of this Agreement.

ARTICLE X

1. The Assembly shall give full publicity to the intention to conclude any commodity arrangement and to the convening of any study group or negotiating conference in connexion with such an arrangement. After the conclusion of any arrangement full publicity shall be given to its purpose and terms.
2. A study group which remains in existence after presenting its report shall present annual reports to the Assembly on its activities.
3. The council of every arrangement shall make an annual report to the Assembly on the operation of the arrangement, and, in addition, any reports on subjects within the competence of the council which the Assembly may desire.
4. The Assembly shall make an annual review of the operation of each arrangement in the light of the provisions and objectives of this Agreement and may make recommendations for the guidance of the participants.
5. The Assembly shall publish either itself or jointly with other inter-governmental organisations an annual report reviewing, to the extent that it considers necessary, developments in international commodity trade, including the operation of arrangements and any other intergovernmental consultation and action in the primary commodity field. The report shall be transmitted to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade for their consideration, in view of the effect of the operation of this Agreement on the obligations of contracting parties under the General Agreement. The report of the Assembly shall also be transmitted to other intergovernmental bodies or agencies interested in commodity problems at their request.

ARTICLE XI

Exceptions to this Agreement

1. The provisions of this Agreement shall not apply:
 - (a) to existing study groups or to the operation or renewal of existing commodity arrangements conforming to the principles approved by the Economic and Social Council of the United Nations in its resolution of 28 March 1947;
 - (b) to any intergovernmental commodity arrangement involving no more than one exporting country and no more than one importing country;
 - (c) to any regional intergovernmental arrangement which provides for an adequate balance of interests between producing or exporting countries on the one hand and consuming or importing countries on the other, and which conforms to the following conditions:

- (i) the arrangement does not involve the fixing of prices or quantities of a primary commodity for the trade in that commodity between participants in the arrangement and non-participants;
- (ii) the operation of the arrangement does not have the effect of substantially altering world prices, or the production, consumption of or international trade in the commodity;
- (iii) the text of the arrangement, an annual report on its operation and any similar document is transmitted to the Assembly;

Provided that any Signatory not participating in the arrangement which considers that the arrangement is not in conformity with these conditions may bring the matter before the Assembly, and the Assembly may make recommendations to the Signatories participating in the arrangement as it considers necessary to bring it into conformity, and the Signatories shall either amend the arrangement in accordance with the recommendations or withdraw from it;

- (d) to those provisions of any intergovernmental commodity arrangement which are necessary for the protection of public morals or of human, animal or plant life or health, provided that the arrangement is not used to accomplish results inconsistent with the objectives of this Agreement;
- (e) to any intergovernmental arrangement relating solely to the conservation of fisheries resources, migratory birds or wild animals, provided that, if the Assembly finds upon complaint by a non-participating Signatory that the arrangement is used to accomplish results inconsistent with the objectives of this Agreement, and that the interests of that Signatory are seriously prejudiced by the arrangement, the Assembly may recommend that the arrangement shall become subject to such provisions of this Agreement as it may prescribe, and participating Signatories shall use their best endeavours to secure a satisfactory adjustment of its terms.

2. Nothing in this Agreement or in an arrangement negotiated in accordance with this Agreement shall be construed:

- (a) to require any Signatory or participant to furnish any information the disclosure of which it considers contrary to its essential security interests; or

- (b) to prevent any Signatory or participant from taking any action which relates to fissionable material or ammunition and implements of war, or which it considers necessary for the protection of its essential security interests in time of war or other emergency in international relations; or
- (c) to prevent any Signatory or participant from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.