

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

REPORT OF THE COMMITTEE ON CHAPTERS I, II AND VIII

Part A - Introduction

1. The Committee on Chapters I, II and VIII was established by Commission B to examine the texts of Chapters I (Purposes), II (Membership) and VIII (Organisation), (with the exception of Articles 64, 67 (3) and (4) and 68 which were to be considered by another committee), contained in the Report of the Drafting Committee^x and the amendments and comments presented by delegations upon these texts, with a view to preparing new texts for the approval of the Commission.^x
2. The Committee consisted of representatives from the delegations of Australia, Belgium/Luxembourg, Brazil, China, France, Union of South Africa, United Kingdom and United States. Representatives of various other delegations attended the meetings of the Committee and participated in its discussions from time to time. Mr. Naude (Union of South Africa) was elected chairman.
3. Special mention might be made of the discussions of the Committee upon the subjects of (a) membership of the Organisation, (b) the settlement of differences, (c) the Commission of the

^x i.e., the Report of the Drafting Committee which was appointed by the First Session and which met in New York.

^{xxx} The references to the Draft Charter hereinafter contained are to the Charter as rearranged in Part C of this Report unless otherwise stated. The reference in brackets in Parts B and C which appear alongside the numbers of articles are to the text prepared by the Drafting Committee.

organisation and related organisational questions and (d) the re-arrangement of the Draft Charter.

(a) As regards the membership of the Organisation, the Committee generally agreed with the proposal made by the delegation of the United Kingdom to provide for admission to the Organisation in certain circumstances of separate customs territories which possessed full autonomy in the conduct of their external commercial relations and of the other matters provided for by the Charter, but which were not yet fully responsible for the formal conduct of their diplomatic relations.

(b) The Committee drafted a new section of four articles to cover the subject of the settlement of differences. These four articles replace paragraph 2 of Article 35 and Article 86 of the text prepared by the Drafting Committee. In the course of its work the Committee made certain modifications in the language agreed upon by the Committee charged by Commission A with the study of Article 35.

(c) The Committee agreed that Section E of Chapter VIII of the text prepared by the Drafting Committee dealing with the Commissions should be changed so as no longer to provide for specific commissions in named field. It was also agreed that the decision to establish particular commissions should be taken by the Conference of the Organisation as required in order to perform the functions of the Organisation as set forth in the substantive Chapters of the Charter. It was also agreed that the functions of these commissions upon their establishment should also be determined by the Conference.

(d) The Committee approved without substantial modification the re-arrangement of the Draft Charter proposed by the Delegation of the United States and set out in Document E/PC/T/W/236 and Corrigenda.

4. In the course of twenty-five meetings the Committee was able to reach agreement on all the provisions contained in the texts of Chapters I, VII, VIII and IX set out in Part B of this Report and upon the rearrangement of the Draft Charter reproduced in Part C, with the exception of paragraph 2 of Article 87, paragraphs 2, 3, and 4 of Article 88 and paragraph 3 of Article 89.

5. The Committee draws the attention of the Preparatory Committee to the limited time which has been devoted to the study of the means of providing for interpretation of the Charter and for the settlement of differences among Members and between Members and the Organisation. The subject was not fully discussed at the First Session of the Preparatory Committee and was not considered at all by the Drafting Committee. At the Second Session the timetable laid down did not permit the Committee sufficient time to make as thorough a study of all the problems involved as the importance of the subject deserves. For these reasons the Committee recommends that this subject should receive early and full re-examination by the World Trade Conference and the drafts contained in this Report have been prepared on the assumption that this course will be followed.

6. Two alternative drafts of paragraph 2 of Article 88 are submitted. While not committing their delegations to a final acceptance of either text, preference for alternative A was expressed by the delegates of Australia, Brazil, China, the Union of South Africa, United Kingdom and United States. The two remaining delegates, those of Belgium/Luxembourg and France, favoured alternative B and reserved their position on the related

question contained in paragraph 3 of Article 89. The delegate of the United Kingdom reserved his position on paragraph 2 of Article 87 and on the proviso contained in paragraph 4 of Article 88.

7. In connection with the settlement of differences, the Committee considered a proposal by the delegation of South Africa to add to the Draft Charter a provision which would by reference incorporate within the Charter those notes interpreting certain parts of the text which were unanimously agreed at the time that these parts of the text were drafted, as evidence of the intention of the Members of the Preparatory Committee. This proposal is contained in Document E/PC/T/W/243. The Committee came to the conclusion, subject to a reservation by the delegation of South Africa, that it would not be appropriate at this stage to insert in the Charter the provision proposed by that delegation. However, the Committee points out that the World Trade Conference might consider whether some such method for dealing with these unanimously agreed interpretations as that suggested by the delegation of South Africa should not be adopted.

8. In the course of its consideration of Article 68 (Membership of the Conference), the Committee noted that it might be found necessary to clarify in the text of Article 60 (Territorial Application) in Chapter VI (Inter-governmental Commodity Agreements) the fact that the joint representation mentioned therein refers only to bodies set up under that Chapter. The attention of Commission B is drawn to this matter.

9. The Committee also brings to the notice of Commission B that whereas the text of Chapter VII (Organisation and Functions), which is recommended for adoption, does not specifically establish commissions in named fields (such as a Commodity Commission), the text of Article 57 (Settlement of Disputes) in Chapter VI

(Inter-governmental Commodity Agreements) refers to "the Commodity Commission." To make Chapters VI and VII consistent in this respect, the Commission may see fit to amend the second sentence of Article 57 in the following fashion:

"If the question or difference cannot be resolved by the Council in terms of the agreement, it shall be referred by the Council to the ~~Commodity Commission~~ for examination and recommendation to the Executive Board ~~Organisation~~ which shall then issue a ruling in pursuance of the provisions of Article ~~86~~ 87."

10. The Committee considered a proposal by the delegation of Norway to change the title of the International Trade Organisation to the "International Organisation on Trade and Employment." This proposal had been referred to the Committee by the Chairman's Committee. Although the reason for this suggestion, namely, the fact that the employment aspect of the Draft Charter has become more important since the title of the Organisation was devised, was appreciated, the Committee felt that the suggested change in the title might give rise to certain difficulties. It was, therefore, agreed to retain the original title.

Part B

CHAPTER I

PURPOSE AND OBJECTIVES

Article 1

RECOGNIZING the determination of the United Nations to promote peaceful and friendly relations among nations,

THE STATES party to this Charter undertake in the fields of trade and employment to co-operate with one another and with the United Nations

F o r T h e P u r p o s e o f

REALIZING the aims set forth in the Charter of the United Nations, particularly the attainment of the higher standards of living, full employment and conditions of economic and social progress and development, envisaged in paragraph (a) of Article 55 of that Charter, and

T o T h i s E n d

They pledge themselves, individually and collectively, to promote national and international action designed to attain the following objectives:

1. To assure a large and steadily growing volume of real income and effective demand, to increase the production, consumption and exchange of goods, and so to contribute to a balanced and expanding world economy.

2. To foster and assist industrial and general economic development, particularly of those countries which are still in the early stages of industrial development, and to encourage the international flow of capital for productive investment.

3. To further the enjoyment by all countries, on equal terms, of access to the markets, products and productive facilities, which are needed for their economic prosperity and development.

4. To reduce tariffs and other barriers to trade and to eliminate discriminatory treatment in international commerce.

5. To enable countries, by increasing the opportunities for their trade and economic development on a mutually advantageous basis, to abstain from measures which would disrupt world commerce, reduce productive employment or retard economic progress.

6. Through the promotion of mutual understanding, consultation and co-operation, to facilitate the solution of problems relating to international trade in the fields of employment, economic development, commercial policy, business practices and commodity policy.

ACCORDINGLY

They hereby establish the INTERNATIONAL TRADE ORGANIZATION through which they shall co-operate as Members to achieve the purpose and the objectives set forth in this Article.

CHAPTER VII

ORGANIZATION AND FUNCTIONS

Section A - Membership

Article 65
(formerly Article 2)

1. The original Members of the Organization shall be those States invited to the United Nations Conference on Trade and Employment whose Governments accept this Charter by _____ 194_____, in accordance with paragraph 2 of Article 95, or, if this Charter shall not have entered into force by _____ 194_____, those States whose Governments agree to bring this Charter into force in accordance with the proviso in paragraph 3 of Article 95.
2. Any other State whose membership has been approved by the Conference shall become a Member of the Organization upon its acceptance of this Charter, as amended up to the date of such acceptance, in accordance with paragraph 2 of Article 95.
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

* The delegation of France found itself able to accept this paragraph only on the condition that it could not be applied to Germany, a part of Germany or an Occupation Zone in Germany.

** Note. Obviously the rights and obligations of any such separate customs territory 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.

upon acceptance of the Charter on its behalf by the competent Member in accordance with paragraph 5 of Article 95.

- (ii) 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, upon acceptance of the Charter on its behalf by the competent Member in accordance with paragraph 5 of Article 95, or, in the case of a territory in respect of which the Charter has been accepted under paragraph 4 of Article 95, 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. The Conference shall determine the conditions upon which membership rights and obligations shall be accorded to Trust Territories administered by the United Nations and to the Free Territory of Trieste.

Section B - Functions and Structure

Article 66 (formerly Article 61)

Functions

In addition to the functions provided for elsewhere in this

* See footnote to paragraph 3 of Article 65.

Charter, the Organization shall have the following functions:

(a) to collect, analyze and publish information relating to international trade, including information relating to commercial policy, business practices, commodity problems and industrial and general economic development.

(b) to encourage and facilitate consultation among Members on all questions relating to the provisions of this Charter and to provide for the settlement of disputes growing out of the provisions of this Charter.

(c) to undertake studies and make recommendations for, and to promote international agreement on, measures designed

(i) to assure just and equitable treatment for foreign nationals and enterprises*

(ii) to expand the volume and to improve the bases of international trade including measures designed to facilitate commercial arbitration and the avoidance of double taxation, and

** (iii) generally to achieve the purpose and any of the objectives set forth in Article 1.

(d) generally to consult with and make recommendations and, as necessary, furnish advice and assistance to Members regarding any matter relating to the purposes or the operation of this Charter, and to perform any other function necessary and proper

* The Committee agreed that the deletion of the mention of specific classes of such nationals and enterprises should not be taken as indicating that these types are not covered in the above broad language. Thus such language would cover treatment of, for example, commercial travellers, and foreign creditors in bankruptcy, insolvency or re-organization.

** It is assumed that the Legal Drafting Committee will examine the use of the phrase "purpose of this Charter" etc. wherever it occurs.

to the carrying out of the provisions of this Charter;

(e) to co-operate with the United Nations and other inter-governmental organizations in furthering both the achievement of the economic and social objectives of the United Nations and the restoration and maintenance of international peace and security.

Article 67
(formerly Article 62)

Structure

The Organization shall have a Conference, an Executive Board, a Tariff Committee, Commissions as established under Article 76 and such other organs as may be required. There shall also be a Director-General and Staff.

Section C - The Conference

Article 68
(formerly Article 63)

Membership

1. The Conference shall consist of all the Members of the Organization.
2. Each Member shall have one representative in the Conference and may appoint alternates and advisers to its representative.
3. No representative to the Conference may represent more than one Member.

Article 69
(formerly Article 64)

Voting
(Assigned to another Committee)

Article 70
(formerly Article 65)

Sessions, procedure and officers

1. The Conference shall meet in regular annual sessions and in such special sessions as may be convoked by the Director-

General at the request of a majority of the Members or of the Executive Board.

2. The Conference shall adopt rules of procedure necessary to carry out its functions, which may include procedures appropriate for the carrying out of its functions during the intervals between its sessions. It shall annually elect its President and other officers.

Article 71
(formerly Article 66)

Powers and duties

1. The powers and duties attributed to the Organization by this Charter and the final authority to determine the policies of the Organization shall, subject to the provisions of Article 78, be vested in the Conference.

2. The Conference may assign to the Executive Board the exercise of any power or the performance of any duty of the Organization, except such specific powers and duties as are expressly conferred or imposed upon the Conference or the Tariff Committee by this Charter.

3. In exceptional circumstances not elsewhere provided for in this Charter, the Conference may waive an obligation imposed upon a Member by this Charter; Provided that any such decision shall be approved by two-thirds of the votes cast and that such majority shall represent at least a simple majority of the Members of the Organization. The Conference may also by such a vote

(a) define certain categories of situation to which other voting requirements shall apply for the waiver of obligations in such exceptional circumstances, and

(b) prescribe such criteria as may be necessary for the application of this paragraph.

4. The Conference may prepare or sponsor agreements with respect to any matter within the competence of the Organization and, by the affirmative votes of two-thirds of the Members present and voting, recommend such agreement for acceptance. Each Member shall, within a period specified by the Conference, notify the Director-General of its acceptance or non-acceptance. In the case of non-acceptance a statement of the reasons therefor shall be forwarded with the notification.

5. The Conference may make recommendations to Members and to other inter-governmental organizations regarding any matter pertaining to the purposes of this Charter.

6. The Conference shall approve the budget of the Organization, and shall apportion the expenditure of the Organization among the Members in accordance with a scale of contributions to be fixed from time to time by the Conference following such principles as may be applied by the United Nations; Provided that no Member shall be required to contribute more than one-third of the total of such expenditure without its consent.

7. The Conference shall determine the site of the Organization and shall establish such branch offices as it may consider desirable.

Section D - The Executive Board

Article 72 (formerly Article 68)

Membership of the Executive Board
(Assigned to another committee)

Article 73
(formerly Article 69)

Voting

1. Each member of the Executive Board shall have one vote.
2. Decisions of the Executive Board shall be made by a majority of members present and voting.

Article 74
(formerly Article 70)

Sessions, procedure and officers

1. The Executive Board shall adopt its own rules of procedure, including rules concerning the convening of its sessions.
2. The Executive Board shall annually elect its Chairman and other officers, who shall be eligible for re-election.
3. The Chairman of the Executive Board, as such, shall be entitled to participate, without the right to vote, in the deliberations of the Conference.
4. Any Member of the Organization which is not a member of the Executive Board, shall be invited to send a representative to any discussion by the Board of a matter of particular and substantial concern to that Member. Such representative shall, for the purpose of such discussion, have all the rights of members of the Board except the right to vote.

Article 75
(formerly Article 71)

Powers and duties

1. The Executive Board shall be responsible for the execution of the policies of the Organization and shall exercise the powers and perform the duties assigned to it by the Conference. It shall supervise the activities of the Commissions and shall take such action upon their recommendations

as it may deem appropriate. It shall prepare the provisional agenda of the Conference.

2. The Executive Board may make recommendations to the Conference, to Members of the Organization or to other inter-governmental organizations, on any subject falling within the scope of this Charter.

Section E - The Commissions

Article 76
(formerly Article 72)

Establishment

The Conference shall establish such Commissions as may be required for the performance of the functions of the Organization in accordance with the provisions of this Charter. The Commissions shall have such functions as the Conference may decide. Commissions shall be responsible to the Executive Board and shall perform such tasks as the Board may assign to them. The Commissions shall consult each other as necessary for the exercise of their functions.

Article 77
(formerly Article 73)

Composition and Procedure

1. Commissions shall be composed of not more than seven persons chosen by the Executive Board and qualified by training or experience to carry out the functions of the Commissions.

2. The number of members of each Commission and the conditions of their service shall be determined in accordance with regulations prescribed by the Conference.

3. Each Commission shall elect its Chairman, and shall adopt rules of procedure which shall be subject to approval by the Executive Board.

4. The rules of procedure of the Conference and of the Executive Board shall provide as appropriate for the participation in their deliberations, without the right to vote, of the chairmen of Commissions.

5. The Organization shall arrange for representatives of other inter-governmental organizations considered by the Organization to have a special competence in the field of activity of any of the Commissions to participate in the work of such Commissions.

Section F - The Tariff Committee

Article 78
(formerly Article 67)

The Tariff Committee

1. There shall be a Tariff Committee which shall act on behalf of the Organization in the making of recommendations and determinations pursuant to paragraph 3 of Article 14.

2. The Committee shall consist originally of those Members of the Organization which are parties to the General Agreement on Tariffs and Trade dated194... on the day on which this Charter enters into force. Any other Member of the Organization shall be a member of the Committee when, in the judgment of the Committee, that member shall have completed negotiations pursuant to paragraph 1 of Article 14 comparable in scope or effect to those completed by the original members of the Committee.

3 and 4. (assigned to another Committee).

5. The Committee shall adopt its own rules of procedure, including provision for the election of its officers.

Section G - The Director-General and Staff

Article 79
(formerly Article 79)

The Director-General

1. The chief administrative officer of the Organization shall be the Director-General. He shall be appointed by the Conference upon the recommendation of the Executive Board. The powers, duties, conditions and term of office of the Director-General shall be in accordance with regulations approved by the Conference. He shall be subject to the general supervision of the Executive Board.

2. The Director-General or his representative shall be entitled to participate, without the right to vote, in all meetings of the various organs of the Organization. The Director-General may initiate proposals for the consideration of any organ of the Organization.

3. The Director-General shall present to the Conference an annual report on the work of the Organization and the annual budget estimates and financial statements of the Organization.

Article 80
(formerly Article 80)

Employment of Staff

1. The Director-General shall have authority to appoint Deputy Directors-General in accordance with regulations approved by the Conference. The Director-General shall also appoint such further members of the Staff as may be required and shall fix the duties and conditions of service of the Staff, in accordance with regulations approved by the Conference.

2. The paramount consideration in the employment of the Staff and in the determination of its conditions of service shall

be the necessity of securing the highest standards of efficiency, competence, and integrity, due regard being paid to the importance of recruitment on as wide a geographical basis as possible.

3. The conditions of service, such as the provisions governing qualifications, salary, tenure, and retirement of members of the Staff shall be fixed, so far as practicable, in conformity with those for members of the Secretariat of the United Nations and of other specialised agencies.

Section H - Other Organizational Provisions

Article 81 (formerly Article 81)

Relations with Other Organizations

1. The Organization shall be brought into relationship with the United Nations as soon as practicable as one of the specialised agencies referred to in Article 57 of the Charter of the United Nations. This relationship shall be effected by agreement to be approved by Conference. Any such agreement shall provide for effective co-operation and the avoidance of unnecessary duplication in the activities of the respective Organizations. The Conference may amend the provisions of this Charter to conform to any such agreement provided such amendments do not involve new obligations on the part of Members.

2. The Organization shall make arrangements with other inter-governmental organizations which have related responsibilities, to provide for effective co-operation and the avoidance of unnecessary duplication in the activities of the Organizations. The Organization may for this purpose arrange for joint committees, reciprocal representation at meetings and establish

such other working relationships as may be necessary. *

3. The Organization may make suitable arrangements for consultation and co-operation with non-governmental organizations concerned with matters within its competence.

4. Whenever the Conference and the competent authorities of any other inter-governmental organization whose purposes and functions lie within the competence of the Organization, deem it desirable

- (a) to incorporate such other inter-governmental organisation into the Organization, or
- (b) to effect a transfer of all or a part only of its functions and resources to the Organization, or
- (c) to bring it under the supervision or authority of the Organization,

the Director-General, subject to the approval of the Conference, may enter into an agreement or convention appropriate to the arrangement. Members shall, in conformity with their international obligations, take the action necessary to give effect to any such agreement or convention.

Article 82
(formerly Article 82)

International responsibilities of personnel
of the Organization

1. The responsibilities of the Director-General and of

* This article may be reopened by the Delegations of Brazil and France in the light of the decisions of another Committee regarding Article 20 (Exchange Arrangements). Those delegations reserved the right to add a new paragraph 3 of Article 81 reading as follows:-

"3. Nevertheless the provisions of paragraphs 1 and 2 of this Article cannot, in point of fact, preclude the right of final decision of the Organization, especially with regard to Articles 17, 19 and 20."

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. The provisions of paragraph 1 of this Article shall also apply to members of the Commissions provided for in Section E of this Chapter.

3. The Members shall respect the international character of the responsibilities of these persons and shall not seek to influence them in the discharge of their duties.

Article 83
(formerly Article 83)

International legal status of the Organization

The Organization shall have legal personality and shall enjoy such legal capacity as may be necessary for the exercise of its functions.

Article 84
(formerly Article 84)

Status of the Organization in the territory
of Members

1. The Organization shall enjoy in the territory of each of its Members such legal capacity, privileges and immunities as may be necessary for the exercise of its functions.

2. Representatives of the Members of the Organization and its officials shall similarly enjoy such privileges and immunities as may be necessary for the independent exercise of their functions in connection with the Organization.

3. Such legal capacity, privileges and immunities shall be more particularly defined in an agreement to be prepared in

consultation with the Secretary-General of the United Nations and concluded between the Members and the Organization.

Article 85
(formerly Article 87)

Contributions

Each Member shall contribute promptly to the Organization its share of the Organization's expenditures 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 satisfied that the failure to pay is due to conditions beyond the control of the Member.

CHAPTER VIII

Miscellaneous

SECTION A - INTERPRETATION - SETTLEMENT OF DIFFERENCES

Article 86
(formerly Article 35(21))

Consultation between Members.

If any Member should consider that any benefit accruing to it directly or indirectly under this Charter is being nullified or impaired, or that the realisation of any objective of the Charter is being impeded, as a result of -

- (i) the failure of another Member to carry out its obligations under this Charter, or
- (ii) the application by another Member of any measure, whether or not it conflicts with the provisions of this Charter, or
- (iii) the existence of any other situation,

the Member may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to the other Member or Members which it considers to be concerned. Any Member thus approached shall give sympathetic consideration to the representations or proposals made to it. In any such case, the Members concerned shall keep the Director-General informed generally of any discussions undertaken.

Article 87

Reference to the Organization

1. If no satisfactory adjustment is effected within a reasonable time or if the difficulty is of the type described in sub-paragraph (iii) of Article 86, the matter may be referred to the Executive Board or with the approval of the Executive Board directly to the Conference. The Executive Board or the Conference, as the case may be, shall promptly investigate any matter so referred and shall make recommendations to the Members which it considers to be concerned or give a ruling on the matter as appropriate. It may in the course of such investigation consult with Members, the Commissions of the Organization, the Economic and Social Council of the United Nations and any other inter-governmental organization in cases where it considers such consultation necessary.

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 Board and such Members.

3. Any ruling of the Executive Board shall be reviewed by the Conference at the request of any interested Member. Upon such request the Conference shall by resolution confirm or adjust or reverse such ruling.

4. If the Conference considers that the circumstances are serious enough to justify such action, it may authorize a Member or Members to suspend the application to such other Member or Members of such obligations or concessions under this Charter as the Conference determines to be appropriate in the circumstances. If the application to any Member of any obligation or concession is in fact suspended that Member shall then be free, not later than sixty days after such action is taken, to advise the Director-General in writing of its intention to withdraw from the Organization and such withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Director-General.

Article 88
(formerly Article 86)

Reference to the International Court of Justice

1. The Executive Board or the Conference may, in accordance with arrangements made pursuant to 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 the activities of the Organization.

2. The Conference shall, at the instance of a substantially interested Member, request an advisory opinion from the International Court of Justice.

Alternative A (Favoured by six members)

upon any question concerning the legal validity of a resolution of the Conference under paragraph 3 of Article 87 or of a decision of the Conference rendered under any other Article of this Charter.

Alternative B (Favoured by two members)

upon any question as to:

- (1) the interpretation of this Charter;
- (11) the existence of any fact which would, if established, constitute a breach of an obligation under this Charter,

which is involved in a resolution of the Conference under paragraph 3 of Article 87 or in a decision of the Conference rendered under any other article of this Charter.

3. The request shall be accompanied by a statement, to be furnished by the Organization in consultation with the Members substantially interested, of the facts underlying the question upon which the opinion of the Court is requested. The Organization shall supply to the Court such further information as the Court may require.

4. Pending the delivery of the opinion of the International Court of Justice, the resolution or decision of the Conference which is in question shall have full force and effect; Provided that the Conference shall suspend the operation of such resolution or decision pending the delivery of the opinion where in the view of the Conference irreparable damage to the Members concerned would otherwise be caused.

5. The opinion of the International Court of Justice upon the questions referred to it shall be binding upon the Organization. The resolution or decision in question shall be revised insofar as it does not accord with the opinion of the International Court of Justice.

Article 89

General Provisions

1. For the purposes of the interpretation of this Charter under the provisions of this Section, the English and French texts thereof shall be authoritative.

2. Nothing in this Section shall be construed to exclude other procedures provided for in this Charter for consultation, and settlement of differences, arising out of its operation.

3. The Members undertake that they will not have recourse to any procedure other than those envisaged in the Charter for the settlement of complaints and difficulties arising out of its operation.

4. The Conference and the Executive Board shall establish such rules of procedure as may be necessary to carry out the provisions of this Section. The rules of the Conference shall include provisions concerning the maintenance in force or suspension of any rulings of the Executive Board pending review by the Conference under paragraph 3 of Article 87. (The two members who favoured Alternative B in Article 88 did not accept this paragraph.)

SECTION B - GENERAL

Article 90 - Relations with Non-Members.
(formerly Article 36)
(Assigned to another committee)

Article 91*

General Exceptions

Nothing in this Charter shall be construed to require any Member to furnish any information the disclosure of which

* As approved by Commission A.

it considers contrary to its essential security interests, or to prevent any Member from taking any action which it may consider to be necessary to such interests:

- (a) Relating to fissionable materials or their source materials;
- (b) Relating 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;
- (c) In time of war or other emergency in international relations, relating to the protection of its essential security interests;
- (d) Undertaken in pursuance of obligations under the United Nations Charter for the maintenance of international peace and security.

Article 92
(formerly Article 85)

Amendments

1. Without prejudice to the provisions of paragraph 1 of Article 81, any amendment to this Charter which does not involve a change in the obligations assumed by Members shall become effective when approved by two-thirds of the Members of the Conference.

2. Any amendment to this Charter which involves a change in the obligations assumed by Members shall, after receiving the approval of the Conference, become effective for each Member accepting the amendment, upon acceptance on the part of two-thirds of the Members, and thereafter, for each remaining Member on acceptance by it. The Conference may at any time determine that any amendment under this paragraph is of such a nature that all Members which have not accepted it within a period specified by the

Conference shall be required to withdraw from the Organisation; Provided that the Conference may, by the affirmative votes of two-thirds of its Members present and voting, determine the conditions under which this requirement shall be waived with respect to any such Member. A Member not accepting an amendment shall, notwithstanding the provisions of paragraph 1 of Article 94 be free to withdraw from the Organisation upon the expiration of six months from the day on which written notice of such withdrawal is received by the Director-General.

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 93

Review of Charter

The Conference shall convene a Special Session for the purpose of reviewing the provisions of this Charter before the end of the tenth year after this Charter shall have entered into force.

Article 94

(formerly Article 89)

Withdrawal and Termination

1. Without prejudice to the provisions of paragraph 3 of Article 14, paragraph 4 of Article 87 or paragraph 2 of Article 92, any Member may withdraw from the Organization either on its own behalf or on behalf of a separate Customs Territory on behalf of which it has accepted the Charter in accordance with the provisions of Article 95 at any time after the expiration of three years from the day of the entry into force of this Charter by written notice addressed to the Director-General. The Director-General shall immediately notify all other Members.

2. A withdrawal under paragraph 1 of this Article shall take effect upon the expiration of six months from the day on which written notice of such withdrawal is received by the Director-General.

3. This Charter may be terminated at any time by agreement of three-fourths of the Members.

Article 95 (formerly Article 88)

Registration and Entry into Force

The United Nations is authorised to effect registration of this Charter as soon as it comes into force.

2. The Government of each State 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 not so represented, of the date of deposit of each instrument of acceptance and of the date on which this Charter enters into force under paragraph 3 of this Article.

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 instruments of acceptance pursuant to paragraph 2 of this Article shall reach twenty, and the instrument of acceptance of each other accepting government shall take effect on the sixtieth day following the day on which it is deposited, Provided that, if this Charter shall not have entered into force by 194 , any of the governments which have brought into force the General Agreement on Tariffs and Trade dated 194 , together with any other governments

represented at the United Nations Conference on Trade and Employment, upon such conditions as may be agreed upon between them, may bring this Charter into force among themselves. 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 accepting this Charter does so in respect of its metropolitan territory and of any other territories for which it has international responsibility; Provided that it may at the time of acceptance declare that any separate Customs territory for which it has international responsibility possesses full autonomy in the conduct of its external commercial relations and other matters provided for by the Charter, and that acceptance does not relate to such territory.

5. Each Member may, at any time, accept this Charter in accordance with paragraph 2 of this Article on behalf of any such separate customs territory referred to in the proviso of paragraph 4 of this Article, which is willing to undertake the obligations of the Charter.

6. Each Member shall take such reasonable measures as may be available to it to assure observance of the provisions of this Charter by subsidiary governments within its territory.

Article 96

Deposit of Texts

The original texts of this Charter in the official languages of the United Nations shall be deposited with the Secretary-General of the United Nations who will furnish certified copies of the texts to all interested Governments.

Done at _____ this _____ day of _____
One Thousand Nine Hundred and Forty _____

* PART C - ARRANGEMENT OF THE DRAFT CHARTER

CHAPTER I	PURPOSE AND OBJECTIVES	Article 12(13)	Governmental Assis- tance to Economic Development
Article 1.(1)		CHAPTER IV.(V)	COMMERCIAL POLICY
CHAPTER II.(III)	EMPLOYMENT AND ECONOMIC ACTIVITY	Section A.	<u>Tariffs, Preferences, and Internal Taxation and Regulation</u>
Article 2.(3)	Importance of Em- ployment, Produc- tion and Demand in Relation to the Purposes of this Charter.	Article 13(14)	General Most- Favored-Nation Treatment
Article 3.(4)	Maintenance of Domestic Employment	Article 14(24)	Reduction of Tariffs and Elimination of Preferences
Article 4.(5)	Fair Labour Standards	Article 15(15)	National Treatment on Internal Taxa- tion and Regulation
Article 5.(6)	Removal of Malad- justments within the Balance of Payments	Section B.	<u>Quantitative Restric- tions and Exchange Controls</u>
Article 6.(8)	Exchange of Inform- ation and Consultation	Article 16(25)	General Elimination of Quantitative Restrictions
Article 7.(7)	Safeguards for Mem- bers Subject to Ex- ternal Deflationary Pressure	Article 17(26)	Restrictions to safeguard the Bal- ance of Payments
CHAPTER III (IV)	ECONOMIC DEVELOPMENT AND INTERNATIONAL IN- VESTMENT	Article 18(27)	Non-Discriminatory Administration of Quantitative Res- trictions
Article 8.(9)	Importance of Econ- omic Development in Relation to the Purposes of this Charter	Article 19(28)	Exceptions to the Rule of Non- Discrimination
Article 9.(10)	Development of Domestic Re- sources and Productivity	Article 20(29)	Exchange Arrange- ments
Article 10.(11)	Plans for Economic Development	Section C.	<u>Subsidies</u>
Article 11.(12)	Means of Economic Development.	Article 21(30)	Subsidies in General
		Article 22.	Additional Provi- sions on Export Subsidies

* The titles used in Part C are merely quoted to facilitate reference and their use is not intended to imply that the Committee examined approved them.

Article 23.	Special Treatment of Primary Commodities	Article 40 (37)	General Exceptions to Chapter IV
Article 24.	Undertaking Regarding Stimulation of Exports	CHAPTER V (VI) RESTRICTIVE BUSINESS PRACTICES	
Article 25.	Procedure	Article 41 (39)	Policy Towards Restrictive Business Practices
<u>Section D. State Trading</u>		Article 42 (40)	Procedure with Respect to investigations and consultations
Article 26 (31)	Most-Favored-Nation Treatment by State Trading Enterprises	Article 43 (41)	Studies Relating to Restrictive Business Practices
Article 27 (32)	Expansion of International Trade by Members having State Monopolies	Article 44 (42)	Obligations of Members
<u>Section E. General Commercial Provisions</u>		Article 45 (43)	Supplementary Enforcement Arrangements
Article 28.	Conditions with Respect to Shipments	Article 46 (44)	Domestic Measures Against Monopoly or Restraint of Trade
Article 29 (16)	Freedom of Transit	Article 47	Procedure with Respect to Services
Article 30 (17)	Anti-Dumping and Countervailing Duties	Article 48 (45)	Exceptions to Provisions of this Chapter
Article 31 (18)	Tariff Valuation	CHAPTER VI (VII) INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS	
Article 32 (19)	Customs Formalities	<u>Section A. Introductory Considerations</u>	
Article 33 (20)	Marks of Origin	Article 49 (46)	Difficulties Relating to Primary Commodities
Article 34 (21)	Publication and Administration of Trade Regulations, Advance Notices of Restrictive Regulations	Article 50	Primary and Related Commodities
Article 35 (22)	Information Statistics and Trade Terminology	Article 51 (47)	Objectives of Inter-governmental Commodity Agreements
Article 36 (23)	Boycotts	<u>Section B. Inter-governmental Commodity Agreements in General</u>	
<u>Section F. Special Provisions</u>		Article 52 (48)	Commodity Studies
Article 37 (34)	Emergency Action on Imports of Particular Products	Article 53 (49)	Commodity Conferences
Article 38 (35)	Consultation Regarding Operation of Chapter IV	Article 54 (51)	General Principles of Inter-governmental Commodity Agreements.
Article 39 (38)	Territorial Application of Chapter IV - Frontier Traffic-Customs Union		

Article 55.	Types of Agreements	<u>Section C.</u>	<u>The Conference</u>
<u>Section C.</u>	<u>Inter-governmental Commodity Control Agreements</u>	Article 68(63)	Membership
Article 56(52)	Circumstances Governing the Use of Commodity Control Agreements	Article 69(64)	Voting
Article 57(53)	Additional Principles Governing Commodity Control Agreements	Article 70(65)	Sessions, procedure and officers
Article 58(54)	Administration of Commodity Control Agreements	Article 71(66)	Powers and duties
Article 59(55)	Provision for Initial Terms Review and Renewal of Commodity Control Agreements	<u>Section D.</u>	<u>The Executive Board</u>
Article 60(56)	Settlement of Disputes	Article 72(68)	Membership
<u>Section D.</u>	<u>Miscellaneous Provisions</u>	Article 73(69)	Voting
Article 61	Relations with Inter-governmental Organizations	Article 74(70)	Sessions, procedure and officers
Article 62(57)	Obligations of Members Regarding Existing and Proposed Commodity Agreements	Article 75(71)	Powers and duties
Article 63	Territorial Application	<u>Section E.</u>	<u>The Commissions</u>
Article 64(59)	Exceptions to Provisions Relating to Inter-governmental Commodity Agreements	Article 76(72)	Establishment
<u>CHAPTER VII.</u>	<u>ORGANIZATION AND FUNCTIONS</u>	Article 77(73)	Composition and procedure
<u>Section A.</u>	<u>Structure and Functions</u>	<u>Section F.</u>	<u>The Tariff Committee</u>
Article 65(63)	Membership	Article 78(67)	The Tariff Committee
Article 66(61)	Functions	<u>Section G.</u>	<u>Director-General and Staff</u>
Article 67(62)	Structure	Article 79(79)	The Director-General
		Article 80(80)	Employment of Staff
		<u>Section H.</u>	<u>Other Organizational Provisions</u>
		Article 81(81)	Relations with other Organizations
		Article 82(82)	International responsibilities of personnel of Organization
		Article 83(83)	International Legal Status of the Organization
		Article 84(84)	Status of the Organization in the territory of Members
		Article 85(87)	Contributions

CHAPTER VIII. Interpretation --
 Settlement of
 Differences

Article 86 (35(2))	Consultation between Members
Article 87	Reference to the Organization
Article 88 (86)	Reference to the International Court of Justice
Article 89	General Provisions

CHAPTER IX General

Article 90 (36)	Relations with Non-Members
Article 91 (37)	General Exceptions
Article 92 (85)	Amendments
Article 93	Review of the Charter
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