

FIFTH COMMITTEE: INTER-GOVERNMENTAL COMMODITY AGREEMENTS

REPORT OF SUB-COMMITTEE 'A'

PART I

1. The Sub-Committee was appointed at the Seventh Meeting (12 December) of the Fifth Committee. It was given the following terms of reference:
"(1) To consider all proposed amendments to Chapter VI as contained in document E/CONF.2/C.5/5, together with the suggestions made during the discussions in Committee V of these proposed amendments; and
(2) to recommend texts which would reconcile the various points of view expressed."
2. The Sub-Committee consisted of representatives of the following delegations:
Argentina, Australia, Colombia, Cuba, Egypt, El Salvador, France, India, Italy, Netherlands, Pakistan, Sweden, United Kingdom, United States of America.
3. Mr. R. B. SCHWENGER (United States) was elected Chairman.
4. A number of representatives of delegations not appointed to the Sub-Committee have attended as observers and, as far as possible, such representatives have participated in the discussion of particular amendments for which they were primarily responsible. Observers from the Food and Agriculture Organization, International Co-operative Alliance and International Federation of Agricultural Producers also attended.
5. The Sub-Committee has held eleven sessions. Thanks to the spirit of co-operation evinced by members, the Sub-Committee reached general agreement on all but one of the points submitted to it. In most cases the recommended texts are believed to reconcile the points of view expressed.
6. The Sub-Committee wishes to place on record its warm appreciation of the untiring services of the Secretariat. The completion of the work within a relatively short space of time has naturally involved a considerable strain, and the efficiency of the Secretariat has been quite outstanding.
7. The complete text of Chapter VI as agreed by the Sub-Committee is attached as an Annex to this Report. Part II of this Report contains a brief statement of the disposition agreed on for each of the matters dealt with.

/PART II

PART II

Article 52 - Difficulties Relating to Primary Commodities

The Sub-Committee noted the fact that the explanatory footnote to Article 52 was withdrawn in Committee.

Article 53 - Primary and Related Commodities

1. The Sub-Committee discussed the proposals of the delegation of Uruguay (C.5/3/Add.12) regarding paragraph 1 of this Article. The proposed preamble, dealing with the extent of application of the definitions, was considered to raise similar questions to those contained in the Chilean amendment (11/Add.30) which the Committee had decided to refer to the Central Drafting Committee. (For this reason, the word "Chapter" is shown in square brackets in the Annex to this Report).

2. The latter part of the Uruguayan amendment would include processing equipment in the definition of a primary commodity, and thus permit separate agreements for such equipment. It was the general opinion of the Sub-Committee that this would be undesirable, largely on the grounds that such equipment presented different characteristics from primary commodities; that agreements for such equipment would, in practice, tend to be of the nature of cartels, with unfavourable results for the users of the equipment; and that, because of lack of standardization of processing equipment, multilateral inter-governmental agreements were impracticable.

In this connection, concern was expressed about the equitable distribution of non-primary products in short supply. The Sub-Committee took note of the fact that agreements for the equitable distribution of non-primary products in short supply are clearly contemplated under Article 43, II (a) as direct exceptions to Chapter IV. Moreover, it was agreed that the Charter contemplated that members of a commodity conference (Article 56) or a Commodity Council under a primary commodity control agreement (Article 61) might discuss and seek agreement covering any or all phases of a commodity problem, including those relating to production difficulties.

3. The delegation of Italy, in the light of the discussion in Committee, had withdrawn its proposal (C.5/3/Add.2) to alter the word "exceptional" in Article 53, paragraph 3.

Article 54 - Objectives of Inter-governmental Commodity Agreements

1. Preamble

The proposal by El Salvador (C.5/3/Add.8) to replace the word "may" by "may only" was withdrawn in view of the new draft of the preamble recommended by the Drafting Sub-Committee (C.5/8) and shown in the Annex.

/2. Sub-paragraph (b)

2. Sub-paragraph (b)

- (1) The Sub-Committee discussed the proposed amendment of the delegation of Mexico (C.5/3/Add.9) to include in this paragraph mention of the promotion of the processing of primary commodities in the producing countries. It was agreed to recommend the addition to sub-paragraph (b) of the words:

"including, as far as possible, in appropriate cases, the development of secondary industries based upon domestic production of primary commodities."

- (11) The Sub-Committee considered an amendment submitted by the delegation of El Salvador to the effect that a statement should be added to Article 54 (b) to make it clear that the provisions of the sub-paragraph would be applicable to uneconomic agricultural industries based on protection. The delegation of El Salvador withdrew its amendment on the understanding of the Sub-Committee that the matter was covered adequately by the provisions of Article 60 (c) and (d).

3. Sub-paragraph (c)

The Sub-Committee considered amendments proposed by the delegations of Ceylon (C.5/3/Add.6), Cuba (C.5/3/Add.3), El Salvador (C.5/3/Add.8), Mexico (C.5/3/Add.9), Philippines (C.5/3/Add.7), Uruguay (C.5/3/Add.12) and Venezuela (C.5/3/Add.11), designed to clarify the term "fair to consumers and remunerative to efficient producers" relating to the prices which may be negotiated in an agreement designed to moderate pronounced price fluctuations. The discussion resulted in general agreement that the existing text was sufficiently flexible to cover the substance of all the proposed amendments. In the negotiation of a commodity agreement, countries would in fact be able to put forward all of the considerations raised in the amendments. These were of the nature of elaborations of the phrase under discussion, particularly of the word "fair". Complete elaboration of the word "fair", however, would involve mention of a number of "fair" considerations besides those raised in the amendments. The negotiation would take place in the light of the objectives of the Charter as a whole, and it was unnecessary to repeat at this point factors which were included more appropriately in other parts of the Charter.

For these reasons the Sub-Committee generally favoured retention of the present text. It was agreed, however, in connection with an amendment to Article 59 proposed by the delegation of Venezuela (see note on

/Article 59),

Article 59), to add the words "prevent or" in sub-paragraph (c) in order to strengthen the text in regard to the use of commodity agreements to deal with pronounced price fluctuations.

4. Sub-paragraph (c)

The Drafting Sub-Committee (C.5/8) recommended a text (see Annex) which includes the sense of the footnote to the Geneva text.

5. Proposed New Sub-paragraphs

New sub-paragraphs were proposed by the delegations of El Salvador (C.5/3/Add.8) and Uruguay (C.5/3/Add.12):

- (i) The proposal by El Salvador for a new sub-paragraph (h) was withdrawn in the light of the new draft of the preamble to this Article recommended by the Drafting Sub-Committee (C.5/8).
- (ii) In the discussion of the El Salvador proposal for a sub-paragraph (g) designed to give small countries access to inter-governmental agreement procedure to deal with certain policies of commercial enterprises purchasing their primary commodities, attention was drawn to the provisions of Chapter V for inter-governmental co-operation on the problems involved. The Sub-Committee thought that, either through the procedures of that Chapter or, insofar as a specific commodity problem was concerned, through Article 55, it would be possible to request the formation of a study group to consider these problems. On this understanding, the delegate for El Salvador withdrew the proposal.
- (iii) The Sub-Committee agreed that the sub-paragraph proposed by the delegation of Uruguay, concerning fair prices for equipment and facilities required for industrialization, was dealt with adequately in connection with its conclusions reported above on Article 54 (c) and on the latter part of the Uruguayan amendment to Article 53.

Article 55 - Commodity Studies

1. Use of term "substantially interested"

The Sub-Committee examined the use of the term "substantially interested" in Articles 55 and 56 in the light of the Committee's instruction that the term should be used consistently. In the Geneva text the term was used both subjectively and objectively according to the particular context. In regard to paragraph 1 of Article 55, it had been the original intention to limit the Members who might ask for a study group to those "substantially interested" in an objective sense. It was now agreed, however, that

/any Member

any Member substantially interested from its own (subjective) viewpoint, should have the right to ask for a study group.

It was therefore agreed to re-draft the opening words of paragraph 1 as follows:

"Any Member which considers itself substantially interested in the production or"

It was considered that this change would cover the intentions of the amendments submitted by the delegations of Uruguay (C.5/3/Add.12) and El Salvador (C.5/5/Add.3).

The Sub-Committee also agreed to a consequential drafting change in paragraph 2 ".....if the Member considers itself substantially interested"

2. Powers of Study Groups

(i) In regard to the proposed amendments of the delegation of Ceylon (C.5/3/Add.6), the Sub-Committee agreed that the intentions of these amendments were in fact covered by the existing text. In particular, it was understood that the power of a study group to make recommendations to its members and to the Organization as to how best to deal with special difficulties includes the power to recommend that the situation requires an agreement or a continuing study group. Moreover, if the situation warrants, Article 56 permits going straight to the conference stage without calling a study group.

(ii) It was agreed to strengthen the text of paragraph 3 by deleting the word "may" in line 7.

Article 56 - Commodity Conferences

1. The Sub-Committee arrived at general agreement that the substance of the amendments to paragraph 1 submitted by Ceylon (C.5/3/Add.6), Egypt (C.5/3/Add.12) and El Salvador (C.5/5/Add.3), and also of the suggestions made in Committee (see C.5/5, page 6), would be covered by the new text shown in the Annex.

In sub-paragraph (b) of this new text the word "significant" has been substituted for "substantial" because the Sub-Committee thought that the latter might be open to a restrictive interpretation. In using the term "significant", the Sub-Committee intends that account be taken of considerations additional to the proportion of total world production, consumption or trade, which the term "substantial" might be taken to imply. It is still the intention in this sub-paragraph, however, that there should be a finding by the Organization as to the extent of Members' interest.

The new sub-paragraph (c) agreed by the Sub-Committee is designed to permit Members, whose economies are dependent to an important extent on a

/primary commodity,

primary commodity, to call on the Organization to convene a commodity conference. In this instance, as distinct from sub-paragraph (b), judgment as to the extent of Members' interest is left to the Members themselves, but the Organization may reject their request for a conference if, and only if, it thinks that no useful purpose would be served.

2. In line 1 of paragraph 2 it was agreed to substitute the word "itself" for the words "that it is", in order to secure consistency with the new text of Article 55.

3. The delegation of El Salvador, in the light of the discussion on Article 55 regarding the powers of study groups, withdrew its proposal for a new paragraph in Article 56 (C.5/5/Add.3).

4. The new paragraph proposed by the delegation of Peru (C.5/3/Add.4) was withdrawn in Committee.

Article 57 - General Principles governing Inter-governmental Commodity Agreements

In the light of the Sub-Committee discussion of the "due consideration" clause at the end of paragraph 1 (c) of Article 57, the delegation of the Philippines withdrew its proposed amendment (C.5/3/Add.7).

The Sub-Committee was of the opinion that the existing clauses covered the situation envisaged in the Philippine amendment. The Geneva text was necessary because it also had to cover other situations that might arise in relation to non-participants in a commodity agreement.

Article 58 - Types of Agreements

1. Paragraph 5

The Sub-Committee gave consideration to the proposal made in Committee that the last sentence of paragraph 5 of this Article should be re-drafted so as to provide for smooth transition at the time when an "expansion" agreement becomes a commodity control agreement through the entry into operation of its price provisions. It was thought necessary to remove the implication, contained in the present text, that the Organization must call substantially interested Members together to make a finding under Article 59 at the time the price provisions of any such agreement become operative. The Sub-Committee therefore agreed to the new text shown in the Annex.

2. Paragraph 6

- (a) (1) In regard to the proposals of the delegation of Mexico (C.5/3/Add.9) on paragraph 6, it was agreed that the delegation's first point, relating to the word "recommended", was covered by the new text agreed in Committee for the first sentence of this paragraph (see page 8 of C.5/5),

/(11) Regarding

- (ii) Regarding the second part of the Mexican amendment, designed to prevent delay between a study group and a conference, the delegate for Mexico agreed to withdrawal on the understanding that the changes agreed to in Articles 55 and 56 had reduced the danger of delay to a minimum. In this connection, it was agreed to extend the "unreasonable delay" provisions by adding the words "in the convening or" before "in the proceedings" in paragraph 6.
- (iii) In explanation of the third part of the Mexican amendment relating to the "provisional" nature of agreements reached by direct emergency negotiation, it was pointed out that an agreement reached by such action would be subject to revision in the light of any conflicting decision which might subsequently be reached by a properly constituted commodity conference. It was also pointed out that agreements reached by direct negotiation would have to conform to the other provisions of Chapter VI. On this understanding the amendment was withdrawn.
- (b) At the suggestion of the Cuban member the Sub-Committee agreed that, for the purposes of clarification, paragraph 6 should contain references to the provisions of Article 59. It was therefore agreed to make the following additions to the existing text:
- (i) in line 4, after "Article 56", to add "and after an appropriate finding has been made in accordance with Article 59".
- (ii) to add at the end of the paragraph "and that the situation falls within the cases contemplated in Article 59 (a) or (b)".

Article 59 - Circumstances Governing the use of Commodity Control Agreements

1. In discussing in Committee his delegation's proposal (C.5/3/Add.6) to delete this Article, the representative of Ceylon brought out the point that the determinations required under the Article might be interpreted to call for a procedural step additional to those provided in Articles 55 and 56. For this reason it was agreed to eliminate paragraph 2 of Article 59 and to re-draft the preamble of paragraph 1. The new text of Article 59 is shown in the Annex.

The new text is intended to make it clear that procedure additional to that set out in Articles 55 and 56 is not called for. The Sub-Committee took the view that the finding referred to would in most cases be made by substantially interested Members through a commodity conference.

/2. Arising from

2. Arising from discussion on a new sub-paragraph to Article 59 proposed by the delegation of Venezuela in place of its earlier proposal (C.5/3/Add.11) it was agreed to amend Article 54 (c) as noted earlier in this Report. As concerns the text of Article 59 itself, there was general agreement that the Venezuelan delegation's concern about the use of control agreements to deal with pronounced price fluctuations was covered.

Article 60 - Additional Principles Governing Commodity Control Agreements

1. Sub-paragraph (a)

In order to incorporate in the text of the Charter the sense of the explanatory footnote to sub-paragraph (a), it was agreed to amend the text as follows:

"(a)for world demand at prices agreed in the light of Article 54 (c), and"

2. Sub-paragraph (b)

The footnote to sub-paragraph (b) was withdrawn in Committee.

Article 62 - Initial Term, Review and Renewal of Commodity Control Agreements

Paragraph 1

The amendment proposed by the delegation of Costa Rica (11/Add.16) would have removed the limit on the term of a commodity control agreement. One delegation wished to fix a shorter maximum term. There was general agreement in favour of retaining the existing text.

Article 64 - Relations with Inter-governmental Organizations

Discussion of the amendment proposed by the delegation of India (11/Add.27) resulted in a general agreement that the existing text should be retained. It was felt that this text provided an appropriate recognition of the special responsibilities of FAO in the field of food and agriculture. FAO has continuing responsibility in this field, and this was emphasized in Article 64. ITO would have the responsibility for inter-governmental commodity agreements under which Members of ITO were granted exceptions to the general commercial provisions of the Charter. Therefore, ITO should appropriately be the organization to convene conferences to negotiate such agreements. Under the provisions of Article 84 a detailed working agreement would have to be made between the two specialized agencies, to provide for effective co-operation in their related fields of activity. The representative of India indicated that his delegation reserved its position pending discussion in Committee.

Article 65 - Obligations of Members regarding Existing and Proposed Commodity Agreements

In order to give effect to the proposal by the delegation of Argentina to amend paragraph 1, it was agreed that the third sentence of paragraph 1 should read:

/"If after

"If, after review, the Organization finds that any such agreement is inconsistent with the provisions of this Chapter, it shall communicate such findings to the Members concerned in order to secure promptly the adjustment of the agreement to bring it into conformity with the provisions of this Chapter."

Similarly the amendment proposed by Argentina to the second sentence of paragraph 2 was given effect by amending the second sentence to read:

"If, after review, the Organization finds that any such negotiations are inconsistent with the provisions of this Chapter, it shall communicate such findings to the Members concerned in order to secure prompt action with regard to their continued participation in such negotiations."

Article 67 - Exceptions to Provisions Relating to Inter-governmental Commodity Agreements

Paragraph 1

- (1) The Sub-Committee accepted the proposal of the delegation of Norway (C.5/3/Add.10) to exclude, subject to safeguards, certain conservation agreements from the provisions of the Chapter, and agreed to the addition of a new sub-paragraph (d) to paragraph 1 of Article 67 (see Annex).

It was pointed out that a comparable exemption would be needed in Chapter IV, and it was agreed to refer this matter to the Third Committee.

- (ii) Regarding the amendment proposed by the delegation of the United States (C.5/3/Add.5), the Sub-Committee reached agreement on the following points:

- (a) That the Charter should be amended to make clear that it was intended to have an exception for action relating to primary commodities as defined in Article 53, taken in concert as well as taken unilaterally, applying to the requirements of national security - in whatever way the reference to national security should appropriately be drafted.

- (b) That it was desirable that the exception be drafted as narrowly as possible consistently with achieving adequately the purpose of the exceptions.

- (c) That decision as to

- (i) the drafting of the exception, and

- (ii) its location in the Charter

might best be taken in connection with the discussion of the related portion of Article 94, though not necessarily by the Committee responsible for that Article.

/(d) That

(d) That the Sub-Committee should report that the following two texts (shown in square brackets in the Annex) had been before it for discussion:

Proposal 1 - the addition of the following sub-paragraph:
"(e) to any inter-governmental commodity agreement, or any provision in such an agreement, made to meet the essential requirements of national security."

Proposal 2

(i) The addition of the following sub-paragraph:
"(e) to any inter-governmental agreement concluded solely for the purpose of the non-commercial accumulation of reserves of primary commodities for military purposes or of the expansion of facilities for the production of such primary commodities: Provided that any Member, not being a party to such agreement, may bring a complaint that its commercial interests are seriously prejudiced by the operation of the agreement and the Organization, if it so finds, shall request the participating Members to consult with the complaining Member in order to safeguard the latter's commercial interests."

(ii) The addition of the following new paragraph 2

"Any Member accumulating non-commercial reserves of primary commodities for military purposes under an inter-governmental agreement, to which paragraph (1) (e) of this Article applies, shall not make arrangements for the commercial liquidation of such reserve stocks in such a way as to injure the commercial interests of producers of the commodities in question, and shall consult with the Organization as to the best means to that end."

Proposed New Article

The Sub-Committee considered the proposal of the delegation of Colombia (C.5/3/Add.1) to insert a new Article which would except from the Chapter agreements concluded by countries, whose economies depend essentially on the export of certain primary commodities, to defend the prices of these commodities against the effects of pronounced short-term fluctuations in foreign markets. There was general agreement that the proposed amendment would widen the terms of Chapter VI by permitting producer countries to conclude agreements not contemplated under the present text and would not accomplish the intention of the proposal because:

(1) consumer countries would insist on equivalent rights which might nullify its aims, and

/(2) its purposes

(2) its purposes could not be achieved without adequate participation by consuming countries.

It was generally felt that the purpose of the amendment could be best achieved through inter-governmental agreements made in accordance with the present provisions of the Chapter. The representative of one delegation called attention to Article 27 as presenting a possible solution to the problem raised by the proposal. The representative of Colombia reserved his position.

Note on Reference in Chapter IV

In considering the relation of Chapter VI to the Charter as a whole, it was agreed to recommend to the Committee that it should discuss the desirability of requesting Committee III to amend paragraph I (h) of Article 43 to read as follows:

"(h) undertaken in pursuance of the terms of inter-governmental commodity agreements concluded in accordance with the provisions of Chapter VI; or"

It was considered that the word "terms" conveys more appropriately the understanding of the Sub-Committee as to the desired exception from Chapter IV. It was felt that the word "obligation" was subject to possible misinterpretation.

ANNEX TO REPORT TO THE FIFTH COMMITTEE

RECOMMENDED TEXT OF CHAPTER VI*

CHAPTER VI

INTER-GOVERNMENTAL COMMODITY AGREEMENTS

SECTION A - INTRODUCTORY CONSIDERATIONS

Article 52

Difficulties Relating to Primary Commodities

The Members recognize that the conditions under which some primary commodities are produced, exchanged and consumed are such that international trade in these commodities may be affected by special difficulties such as the tendency towards persistent disequilibrium between production and consumption, the accumulation of burdensome stocks and pronounced fluctuations in prices. These special difficulties may have serious adverse effects on the interests of producers and consumers, as well as widespread repercussions jeopardizing the general policy of economic expansion. The Members recognize that such difficulties may, at times, necessitate special treatment of the international trade in such commodities through inter-governmental agreement.

Article 53

Primary and Related Commodities

1. For the purposes of this [Chapter] the term "primary commodity" means any product of farm, forest or fishery or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade.
2. The term shall also cover a group of commodities, of which one is a primary commodity as defined in paragraph 1 of this Article and the others are commodities (whether primary or non-primary) which are so closely related, as regards conditions of production or utilization, to the other commodities in the group, that it is appropriate to deal with them in a single agreement.
3. If, in exceptional circumstances, the Organization finds that the conditions set forth in Article 59 exist in the case of a commodity which does not fall precisely under paragraphs 1 or 2 of this Article, the Organization may decide that the provisions of this Chapter, together with

* This recommended text is the Geneva text replaced by changes suggested by the Sub-Committee or the Drafting Committee.

/any other

any other requirements it may establish, shall apply to inter-governmental agreements regarding that commodity.

Article 54

Objectives of Inter-Governmental Commodity

Agreements

The Members recognize that inter-governmental commodity agreements are appropriate for the achievement of the following objectives:

- (a) to prevent or alleviate the serious economic difficulties which may arise when adjustments between production and consumption cannot be effected by normal market forces alone as rapidly as the circumstances require;
- (b) to provide, during the period which may be necessary, a framework for the consideration and development of measures which 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, including, as far as possible, in appropriate cases, the development of secondary industries based upon domestic production of primary commodities;
- (c) to prevent or moderate pronounced fluctuations in the price of a primary commodity with a view to achieving a reasonable degree of stability on a basis of prices fair to consumers and remunerative to efficient producers, having regard to the desirability of securing long-term equilibrium between the forces of supply and demand;
- (d) to maintain and develop the natural resources of the world and protect them from unnecessary exhaustion;
- (e) to provide for the expansion of the production of a primary commodity where this can be accomplished with advantage to consumers and producers, including in appropriate cases the distribution of basic foods at special prices;
- (f) to assure the equitable distribution of a primary commodity in short supply.

SECTION B - INTER-GOVERNMENTAL COMMODITY AGREEMENTS IN GENERAL

Article 55

Commodity Studies

1. Any Member which considers itself substantially interested in the production or consumption of, or trade in, a particular primary commodity, and which considers that international trade in that commodity is, or is likely to be, affected by special difficulties, shall be entitled to ask that a study of the commodity be made.

12. Unless

2. Unless it decides that a prima facie case has not been established, the Organization shall promptly invite each Member to appoint representatives to a study group to make a study of the commodity if the Member considers itself substantially interested in the production or consumption of, or trade in, the commodity. Non-Members may also be invited.

3. The study group shall promptly investigate the production, consumption and trade situation in regard to the commodity, and shall report to the participating Governments and to the Organization its findings and its recommendations as to how best to deal with any special difficulties which exist or may be expected to arise. The Organization shall promptly transmit to the Members these findings and recommendations.

Article 56

Commodity Conferences

1. The Organization shall promptly convene an inter-governmental conference to discuss measures designed to meet the special difficulties which exist or are expected to arise concerning a particular primary commodity:

(a) on the basis of the recommendations of a study group,

(b) at the request of Members whose interests represent a significant part of world production or consumption of, or trade in, that commodity,

(c) at the request of Members which consider that their economies are dependent to an important extent on that commodity, unless the Organization finds that no useful purpose could be achieved by convening the conference, or

(d) on its own initiative, on the basis of information agreed to be adequate by the Members substantially interested in the production or consumption of, or trade in, that commodity.

2. Each Member which considers itself substantially interested in the production or consumption of, or trade in, the commodity concerned, shall be invited to participate in such a conference. Non-Members may also be invited to participate.

Article 57

General Principles Governing Inter-Governmental

Commodity Agreements

1. The Members shall observe the following principles governing the conclusion and operation of all types of inter-governmental commodity agreements:

(a) such agreements shall be open to participation initially by any Member on terms no less favourable than those accorded to any other country and thereafter in accordance with such procedure

/and upon

and upon such terms as may be established in the agreement subject to approval by the Organization;

(b) non-Members may be invited by the Organization to participate in such agreements and the provisions of sub-paragraph (a) applying to Members shall apply to any non-Member so invited;

(c) under such agreements there shall be equitable treatment as between participating countries and non-participating Members, and the treatment accorded by participating countries to non-participating Members shall be no less favourable than that accorded to any non-participating non-Member, due consideration being given in each case to policies adopted by non-participants in relation to obligations assumed and advantages conferred under the agreement;

(d) such agreements 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;

(e) full publicity shall be given to any inter-governmental commodity agreement 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 agreement and, periodically, to the operation of the agreement.

2. The Members, including Members not parties to a particular commodity agreement, shall give favourable consideration to any recommendation made under such agreement for expanding consumption of the commodity in question.

Article 58

Types of Agreements

1. For the purposes of this Chapter, there shall be recognized two classes of inter-governmental commodity agreements:

- (a) commodity control agreements as defined in this Article; and
- (b) other inter-governmental commodity agreements.

2. Subject to the provisions of paragraph 5 of this Article, a commodity control agreement is an inter-governmental agreement which involves:

- (a) the regulation of production or the quantitative control of exports or imports of a primary commodity and which has the purpose or might have the effect of reducing, or preventing an increase in, the production of, or trade in, that commodity; or
- (b) the regulation of prices.

/3. The

3. The Organization shall, on the request of a Member, a study group or a commodity conference, decide whether an existing or proposed inter-governmental agreement is a commodity control agreement within the meaning of paragraph 2 of this Article.
4. (a) Commodity control agreements shall be subject to all the provisions of this Chapter.
(b) Other inter-governmental commodity agreements shall be subject to the provisions of this Chapter other than those of Section C. If, however, the Organization decides that an agreement which involves the regulation of production or the quantitative control of exports or imports is not a commodity control agreement within the meaning of paragraph 2 of this Article, it shall prescribe the provisions of Section C, if any, to which that agreement shall conform.
5. An existing or proposed inter-governmental agreement which has the purpose of securing the co-ordinated expansion of aggregate world production and consumption of a primary commodity may be treated by the Organization as not being a commodity control agreement even though the agreement provides for the future application of price provisions; Provided that
 - (a) at the time the agreement is entered into, a commodity conference finds that the conditions contemplated are in accordance with Article 59, and
 - (b) from the date on which the price provisions become operative, the agreement shall conform to all the provisions of Section C except that no further action will be required under Article 59.
6. The Members shall enter into any new commodity control agreement only through a conference called in accordance with Article 56 and after an appropriate finding has been made in accordance with Article 59. If in an exceptional case there has been unreasonable delay in the convening or in the proceedings of the study group or of the commodity conference, Members which consider themselves substantially interested in the production or consumption of, or trade in, a particular primary commodity, may proceed by direct negotiation, to the conclusion of an agreement, provided that the situation falls within the cases contemplated in Article 59 (a) or (b) and that it conforms to the other provisions of this Chapter.

SECTION C - INTER-GOVERNMENTAL COMMODITY CONTROL AGREEMENTS

Article 59

Circumstances Governing the Use of Commodity Control Agreements

The Members agree that commodity control agreements may be entered into only when a finding has been made, through a commodity conference
/or through the

or through the Organization, by consultation and general agreement among Members substantially interested in the commodity, that:

- (a) a burdensome surplus of a primary commodity has developed or is expected to develop, which, in the absence of specific governmental action, would cause serious hardship to producers among whom are small producers who account for a substantial portion of the total output, and that these conditions could not be corrected by normal market forces in time to prevent such hardship, because, characteristically in the case of the primary commodity concerned, a substantial reduction in price does not readily lead to a significant increase in consumption or 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 52, has developed or is expected to develop, which, in the absence of specific governmental action, would not be corrected by normal market forces 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 to a 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.

Article 60

Additional Principles Governing Commodity Control Agreements

The Members shall observe the following principles governing the conclusion and operation of commodity control agreements in addition to those stated in Article 57:

- (a) Such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at prices agreed in the light of Article 54 (c), and, when practicable, shall provide for measures designed to expand world consumption of the commodity;
- (b) under such agreements, participating countries which are largely interested in imports of the commodity concerned shall, in decisions on substantive matters, have together a number of votes equal to that of those largely interested in obtaining export markets for the commodity. Any participating country, which is largely interested in the commodity but which does not fall precisely under either of the above classes, shall have an appropriate voice within such classes;

/(c) such

(c) such agreements shall make appropriate provision to afford increasing opportunities for satisfying national consumption and world market requirements from sources from which such requirements can be supplied in the most effective and economic manner, due regard being had to the need for preventing serious economic and social dislocation and to the position of producing areas suffering from abnormal disabilities;

(d) participating countries shall formulate and adopt programmes of internal economic adjustment believed to be adequate to ensure as much progress as practicable within the duration of the agreement towards solution of the commodity problem involved.

Article 61

Administration of Commodity Control Agreements

1. Each commodity control agreement shall provide for the establishment of a governing body, herein referred to as a Commodity Council, which shall operate in conformity with the provisions of this Article.
2. Each participating country shall be entitled to have one representative on the Commodity Council. The voting power of the representatives shall be determined in such a way as to conform with the provisions of Article 60 (b).
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 appoint a non-voting chairman who, if the Council so requests, may 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. The Organization may at any time require their amendment if it finds that they are inconsistent with the provisions of this Chapter.
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 as the Organization may require 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.

/9. When an

9. When an agreement is terminated, the Organization shall take charge of the archives and statistical material of the Commodity Council.

Article 62

Initial Term, Review and Renewal of Commodity Control Agreements

1. Commodity control agreements shall be concluded for a period of not more than five years. Any renewal of a commodity control agreement, including agreements referred to in paragraph 1 of Article 65, shall be for a period not exceeding five years. The provisions of such renewed agreements shall conform to the provisions of this Chapter.
2. Periodically, at intervals not 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 commodity control agreement shall provide that, if the Organization decides that its operation has failed substantially to conform to the principles laid down in this Chapter, participating countries shall either revise the agreement to conform to the principles or terminate it.
3. Commodity control agreements shall include provisions relating to withdrawal of any party.

Article 63

Settlement of Disputes

Each commodity control agreement shall provide that:

- (a) any question or difference concerning the interpretation of the provisions of the agreement or arising out of its operation shall be discussed originally by the Commodity Council;
- (b) if the question or difference cannot be resolved by the Council in the terms of the agreement, it shall be referred by the Council to the Organization, which shall apply the procedure set forth in Chapter VIII with appropriate adjustments to cover the case of non-Members.

SECTION D - MISCELLANEOUS PROVISIONS

Article 64

Relations with Inter-Governmental Organizations

With the object of ensuring appropriate co-operation in matters relating to inter-governmental commodity agreements, any inter-governmental organization which is deemed to be competent by the Organization, such as the Food and Agriculture Organization, shall be entitled:

- (a) to attend any study group or commodity conference;
- (b) to ask that a study of a primary commodity be made;

/(c) to submit

(c) to submit to the Organization any relevant study of a primary commodity, and, on the basis thereof, to recommend to the Organization that further study of the commodity be made or that a commodity conference be convened.

Article 65

Obligations of Members Regarding Existing and Proposed Commodity Agreements

1. Members shall transmit to the Organization the full text of each inter-governmental commodity agreement in which they are participating at the time they become Members of the Organization. Members shall also transmit to the Organization appropriate information regarding the formulation, provisions and operation of such agreements. If, after review, the Organization finds that any such agreement is inconsistent with the provisions of this Chapter, it shall communicate such finding to the Members concerned in order to secure promptly the adjustment of the agreement to bring it into conformity with the provisions of this Chapter.
2. Members shall transmit to the Organization appropriate information regarding any negotiations in which they are participating at the time they become Members of the Organization, for the conclusion of an inter-governmental commodity agreement. If, after review, the Organization finds that any such negotiations are inconsistent with the provisions of this Chapter, it shall communicate such finding to the Members concerned in order to secure prompt action with regard to their continued participation in such negotiations. The Organization may dispense with the requirements of a study group or a commodity conference, if it finds them unnecessary in the light of the negotiations.

Article 66

Territorial Application

For the purposes of this Chapter, the terms "Member" and "non-Member" shall mean respectively a Member and 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 territories within the group or, where it is so desired, separate representation for the territories mainly interested in exportation and separate representation for the territories mainly interested in importation.

Article 67

Exceptions to Provisions Relating to Inter-Governmental Commodity Agreements

1. The provisions of this Chapter shall not apply:

/(a) to any

(a) to any bilateral inter-governmental agreement relating to the purchase and sale of a commodity falling under Section D of Chapter IV;

(b) to any inter-governmental commodity agreement involving no more than one exporting country and no more than one importing country, and not covered by sub-paragraph (a) above; Provided that if, upon complaint of a non-participating Member, the Organization finds that the interests of that Member are seriously prejudiced by the agreement, the agreement shall become subject to such provisions of this Chapter as the Organization may prescribe;

(c) to those provisions of any inter-governmental commodity agreement which are necessary for the protection of public morals or of human, animal or plant life or health; Provided that such agreements are not used to accomplish results inconsistent with the objectives of Chapter V or Chapter VI.

(d) to any inter-governmental agreement relating solely to the conservation of fisheries resources, migratory birds and wild animals; Provided that such agreements are not used to accomplish results inconsistent with the objectives of this Charter and are given full publicity in accordance with the provisions of Article 57, paragraph 1 (e), and that if the Organization finds, upon complaint of a non-participating Member, that the interests of that Member are seriously prejudiced by the agreement, the agreement shall become subject to such provisions of this Chapter as the Organization may prescribe.

Proposal 1 (see pages 9 and 10)

[(e) to any inter-governmental commodity agreement, or any provision in such an agreement, made to meet the essential requirements of national security.]

Proposal 2, part (i) (see pages 9 and 10)

[(e) to any inter-governmental agreement concluded solely for the purpose of the non-commercial accumulation of reserves of primary commodities for military purposes or of the expansion of facilities for the production of such primary commodities: Provided that any Member, not being a party to such agreement, may bring a complaint that its commercial interests are seriously prejudiced by the operation of the agreement and the Organization, if it so finds, shall request the participating Members to consult with the complaining Member in order to safeguard the latter's commercial interests.]

/Proposal 2, part (ii)

Proposal 2, part (ii) (see pages 9 and 10)

2. Any Member accumulating non-commercial reserves of primary commodities for military purposes under an inter-governmental agreement, to which paragraph 1 (e) of this Article applies, shall not make arrangements for the commercial liquidation of such reserve stocks in such a way as to injure the commercial interests of producers of the commodities in question, and shall consult with the Organization as to the best means to that end.

2.7 The provisions of Articles 55 and 56 and of Section C of this Chapter shall not apply to inter-governmental commodity agreements found by the Organization to relate solely to the equitable distribution of commodities in short supply.

3.7 The provisions of Section C of this Chapter shall not apply to commodity control agreements found by the Organization to relate solely to the conservation of exhaustible natural resources.
