

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

CHAPTER VII

INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS

SUBMITTED BY UNITED STATES DELEGATION

SECTION A. GENERAL CONSIDERATIONS

Article 46

General Statement on Difficulties Relating to Primary Commodities

The Members recognize that the relationship between production and consumption of some primary commodities may present special difficulties. These special difficulties are different in character from those which manufactured goods present generally. They arise out of such conditions as the disequilibrium between production and consumption, the accumulation of burdensome stocks, and pronounced fluctuations in prices. They may have a seriously adverse effect on the interest of both producers and consumers. Moreover, they may have widespread repercussions which would jeopardize the general policy of economic expansion.

Article 47

Objectives of Inter-Governmental Commodity Arrangements

The Members agree that inter-governmental commodity arrangements may be employed to achieve the following objectives:

1. To enable countries to find solutions to the special commodity difficulties referred to in Article 46 without resorting to action inconsistent with the purposes of the Charter.

2. To prevent or alleviate the serious economic problems which may arise when production adjustments cannot be effected by the free play of

/market forces

market forces as rapidly as the circumstances require.

3. To provide, during the period which may be necessary, a framework for the consideration and development of measures which will have as their purpose economic adjustment designed to promote the expansion of consumption or a shift of resources and manpower out of over-expanded industries into new and productive occupations.

4. To moderate pronounced fluctuations in the price of a primary commodity above and below the level which expresses the long-term equilibrium between the forces of supply and demand.

[5. To maintain and develop the natural resources of the world and protect them from unnecessary exhaustion.]

[6. To provide for expansion in the production of a primary commodity which is in such short supply as seriously to prejudice the interests of consumers.]

SECTION B. INTER-GOVERNMENTAL COMMODITY
ARRANGEMENTS IN GENERAL

Article 48

1. A Member or Members substantially interested in the production, consumption or trade of a particular (primary) commodity shall be entitled, if they consider that special difficulties exist or are expected to arise regarding the commodity, to ask that a study of that commodity be made.

2. Unless it resolves that a prima facie case has not been established, the Organization shall promptly invite the Members substantially interested in the production, consumption or trade of the commodity to appoint representatives to a Study Group to make a study of the commodity. Non-Members having a similar interest may also be invited.

3. The Study Group shall, in the light of an investigation of the root causes of the problem, promptly report its findings regarding the production, consumption and trade situation for the commodity. If the

/Study Group

Study Group finds that special difficulties exist or are expected to arise, it shall make recommendations to the Organization as to how best to deal with such difficulties. The Organization shall transmit promptly to Members any such findings and recommendations.

Article 49

Commodity Conferences

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

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

3. If the Conference recommends to Members the adoption of any type of inter-governmental commodity arrangement, such arrangement shall conform to the principles stated in Article 51. If the Conference recommends to Members the adoption of an inter-governmental commodity agreement involving the regulation of production, trade or prices such agreement shall conform to the principles stated in Articles 51 and 53.

Article 50

Relations with Specialized Agencies

1. Competent specialized agencies, such as the Food and Agriculture Organization, shall be entitled:

(a) to submit to the Organization any relevant study of a

[primary]

[primary] commodity;

(b) to ask that a study of a [primary] commodity be made.

2. The Organization may request any specialized agency, which it deems to be competent, to attend or take part in the work of a Study Group or of a Commodity Conference.

Article 51

General Principles of Inter-Governmental Commodity Arrangements

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

1. Such arrangements shall be open for an initial period [initially] to participation by any Member on terms no less favourable than those accorded to any other country [party thereto] and thereafter upon such terms as may be approved by the Organization.

2. Non-Members may be invited by the Organization to participate in such arrangements and the provisions of paragraph 1 applying to Members shall apply to any non-Member so invited.

3. Under such arrangements participating countries shall arrange for equitable treatment as between non-participating Members and participating countries.

4. Participating countries shall, in matters the subject of such arrangements, afford non-participating Member countries treatment no less favourable than that accorded to any non-Member country which does not participate in the arrangement.

5. [3.] Such arrangements shall include provision for adequate participation of countries substantially interested in the production, consumption or trade of the commodity. [in the importation or consumption of the commodity as well as those substantially interested in its exportation or production.]

[4.] In such arrangements, participating countries which are largely

/dependent

dependent for consumption on imports of the commodity involved shall, in determinations made relating to substantive matters, have together a voice equal to that of those largely interested in obtaining export markets for the commodity, provided that those countries which are largely interested in the commodity but which do not fall precisely under either of the above classes shall have an appropriate voice.]

6. [5.] Such arrangements shall provide, where practicable, for measures designed to expand world consumption of the commodity.

7. [6.] Members agree that full publicity shall be given to any inter-governmental commodity arrangement proposed or concluded, to the statements of considerations and objectives advanced by the proposing Members, to the operation of the arrangements, and to the nature and development of measures adopted to correct the underlying situation which gave rise to the arrangement.

SECTION C. INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS
INVOLVING THE REGULATION OF PRODUCTION,
TRADE OR PRICES

Article 52

Circumstances Governing Use of Regulatory Agreements

Members agree that regulatory agreements may be employed only when:

1. A burdensome surplus of a primary commodity has developed or is expected to develop which, because a substantial reduction in price does not readily lead to a significant increase in consumption nor to a significant decrease in production of that commodity, would not, in the absence of specific governmental action, be corrected by normal market[ing] forces alone in time to prevent serious hardship to producers among whom are small producers who account for a substantial portion of the total output; or
2. Widespread unemployment in connection with a particular primary commodity, arising out of difficulties of the kind referred to in

Article 45,

Article 46, has developed or is expected to develop, which in the absence of specific governmental action, would not be corrected by normal market~~ing~~ forces alone in time to prevent widespread and undue hardship to workers, because, in the case of the industry concerned, a substantial reduction in ~~in~~ ~~of~~ price does not readily lead to a significant increase in consumption but to the reduction of employment and because areas in which the commodity is produced in substantial quantity do not afford alternative employment opportunities for the workers involved; or

3. The Organizations finds that, for a commodity other than a primary commodity, in addition to the circumstances set forth in 1 or 2 above, exceptional circumstances justify such action. Such agreements shall be subject not only to the principles set forth in this Chapter but also to any other requirements which the Organization may establish.

Article 53

Additional Principles Governing Regulatory Agreements

Members undertake to adhere to the following principles governing regulatory agreements in addition to those stated in Article 51:

1. Members agree not to enter into any new regulatory agreement unless it has been recommended by a Conference called in accordance with Article 49. Nevertheless, Members substantially interested in the production, consumption or trade of a particular primary commodity may proceed by direct negotiation to the conclusion of an agreement, provided that it conforms to the other provisions of this Chapter, if there has been unreasonable delay in the proceedings of the Study Group or of the Commodity Conference.

2. Under such agreements participating countries shall afford equitable treatment as between non-participating Members and participating countries, giving equitable advantages in return for the observance of equitable obligations.

3. Participating countries shall, in matters the subject of such

/agreements,

agreements, afford non-participating Member countries treatment no less favourable than that accorded to any non-Member country which does not participate in the agreement.]

2. [4.] Such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at reasonable prices.

3. 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.

4. In such arrangements, participating countries which are largely dependent for consumption on imports of the commodity involved shall, in determinations made relating to substantive matters, have together a voice equal to that of those largely interested in obtaining export markets for the commodity.

5. Such agreements shall, with due regard to the need during a period of change for preventing serious economic and social dislocation and to the position of producing areas which may be suffering from abnormal and temporary disabilities, make appropriate provision to afford increasing opportunities for satisfying world requirements from sources from which such requirements can be supplied most effectively and economically.

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

Article 54

Administration of Regulatory Agreements

1. Each regulatory agreement shall provide for a governing body, hereinafter referred to as a Commodity Council.

2. Each of the countries participating in an agreement shall be entitled to be represented by a member on the Commodity Council. These

/members

members alone shall have the right to vote. Their voting power shall be determined in such a way as to conform with the provisions of paragraph 4 of Article 53. [51.]

3. The Organization shall be entitled to appoint a non-voting member to each Commodity Council, and may invite any competent specialized agency to nominate a non-voting member for appointment to a Commodity Council.

4. Each Commodity Council shall have a non-voting chairman who, if the Council so requests, shall be nominated by the Organization.

5. The Secretariat of each Commodity Council shall be appointed by the Council after consultation with the Organization.

6. Each Commodity Council shall adopt appropriate rules of procedure and regulation regarding its activities. These rules and regulations shall be subject to the approval of the Organization.

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

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

Article 55

Provision for Initial Terms, Review, and Renewal of Regulatory Agreements

Regulatory agreements shall be in effect for not more than five years.

Their renewal shall be subject to the principles stated elsewhere in this Chapter [] and to the procedures established in such agreements.

Periodically, at intervals no greater than three years, the Organization shall prepare and publish a review of the operation of each agreement in the light of the principles set forth in this Chapter. Moreover, each commodity agreement shall provide that if its operations have failed substantially to conform to the principles laid down in this Chapter, participating countries shall revise the agreement to conform to the principles or shall

/terminate

terminate it. When an agreement is terminated, the Organization shall take charge over archives, statistical material and other possessions of the Commodity Council.

Article 56

Settlement of Disputes

Any question or difference concerning the interpretation of the provisions of a regulatory agreement or arising out of its operation shall be discussed originally by the Commodity Council. In the absence of agreement, the question shall be referred to the Commodity Commission for examination and recommendation to the Executive Board. The Executive Board shall then issue a ruling subject to the provisions of Article 86.

SECTION D. MISCELLANEOUS PROVISIONS

Article 57

Obligations of Members regarding Existing and Proposed Commodity Arrangements

1. Members undertake to transmit to the Organization the full text of each inter-governmental commodity arrangement in which they are participating at the time of the coming into force of their obligations under this Charter. Members also agree to transmit to the Organization appropriate information regarding the formulation, provisions and operation of such arrangements. Members agree to conform with the decisions made by the Organization regarding their continued participation in any such inter-governmental commodity arrangement which, after review by the Organization, shall have been found to be inconsistent with the intentions of this Chapter.

2. Members undertake to transmit to the Organization appropriate information regarding any negotiations, looking to the conclusion of an inter-governmental commodity arrangement, in which they are participating at the time of the coming into force of their obligations under this Charter. Members also agree to conform with decisions made by the Organization regarding their continued participation in any such negotiations; and the Organization may declare that such negotiations

/conform

conform to the requirements for a Study Group or a Commodity Conference as the case may be.

Article 58

General Undertaking by Members

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

Article 59

Exceptions to Provisions
Relating to Inter-Governmental Commodity Arrangements

1. The provisions of Chapter VII are not designed to cover inter-governmental commodity arrangements which relate solely to the equitable distribution of commodities in short supply or to cover those provisions of inter-governmental commodity arrangements which appropriately relate to the protection of public morals or the protection of human, animal or plant life or health; Provided, that such arrangements are not used to accomplish results inconsistent with the objectives of Chapter VI or Chapter VII. Members agree not to participate in such arrangements if they involve the regulation of production, trade or prices unless they are authorized or provided for by a multilateral convention subscribed to by a majority of the nations affected, or unless operated under the Organization.

2. None of the foregoing provisions of Chapter VII is to be interpreted as applying to arrangements relating to fissionable materials; to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on for the purpose of supplying a military establishment; or, in time of war or other emergency in international relations, to the protection of the essential security interests of a Member.

/Article 50

Article 60

Definitions

1. For the purposes of this Chapter, a primary commodity is any agricultural product or mineral which enters world trade in substantial volume in a form customarily called primary. The term "primary commodity" may include a primary commodity on which minor processing has been performed in preparation for export. It may also include two or more /a group of/ primary commodities which are so closely related to one another that they can conveniently be dealt with in a single arrangement. Such a group may, subject to paragraph 3 of Article 52 include appropriate non-primary commodities.

2. For the purposes of this Chapter, the term "Member" or "non-Member" shall, where it is appropriate, be taken to mean a Member or non-Member with its dependent territories. If a Member or non-Member and its dependent territories form a group, of which one or more units are mainly interested in the export of a commodity and one or more in the import of the commodity, there may be either joint representation for all the associated territories or, where it is so desired, separate representation for the territories mainly interested in export and separate representation for the territories mainly interested in import.

3. An inter-governmental commodity arrangement is any accord between two or more governments relating to a commodity other than an accord relating to the purchase and sale of a commodity falling under Section E of Chapter V, or to an international fisheries or wildlife conservation agreement with the sole objective of conserving and developing the resource.

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