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PROVISIONS FOR TWO-THIRDS MAJORITIES
IN THE DRAFT CHARTER

NOTE BY THE DELEGATION OF THE UNITED KINGDOM

The Drafting Committee was instructed by the Preparatory Committee at its first session to examine the question of two-thirds majorities "with a view to incorporating in the text of the Charter such wording as clearly conveys what is intended." Two forms of wording were agreed upon in London to apply to two different types of cases, the first formula "by the affirmative votes of two-thirds of the Members" to apply to more important decisions (called 'Type 1' in this note), the second "by the affirmative votes of two-thirds of the Members present and voting" for relatively less important decisions (here called 'Type 2').

The Delegation of the United Kingdom is not entirely satisfied that there is sufficient ground for making the distinction between the two types of cases in which two-thirds majorities are required. There are clearly certain decisions which it is important should be made only with the support of two-thirds of the voting power of all the Members of the Organization, but it could be argued that cases in which it is possible to allow the outcome to be dependent on the attendance of Members might equally well be made the subject of a plain majority vote. On the other hand, Type 2 would enable decisions to be reached more rapidly where required, and would avoid situations arising in which abstentions prevented any decision from being reached. In any case it is suggested that it might be better to read by way of definition of Type 1, "concurring votes representing two-thirds of the voting power of all the Members", and for Type 2, if it be retained, "concurring votes representing the voting power of two-thirds of the Members

/present

present and voting."

The following notes are written on the assumption that the distinction between the two types is maintained. Type 1 is clearly appropriate in Article 65 (2) as it stands (determination of criteria for waiving of obligations) and in Article 85 (1) and (3) (amendments to the Charter). Type 2 might perhaps suffice in Article 66 (5) (acceptance of conventions and agreements) which is at present drafted as Type 1.

Suggestions were made in the discussions at the first session of the Preparatory Committee (see document E/PC/T/CV/25) for making decisions subject to two-thirds majorities in certain other cases where at present no specific procedure is laid down (and which would presumably therefore be decided by simple majority). The suggestions related to the following Articles:

1. Article 26 (3) (Conditions under which balance of payments restrictions may be imposed): it is doubtful if a two-thirds majority rule should be applied to this. It is suggested that in any event it should be confined to paragraph 3 (d) - determination that the provision is being abused, and should be of Type 2 as described above.
2. Article 30, 4 (b) (Subsidies, suspension of rules). A two-thirds majority of Type 1 would seem to be reasonable in this case.
3. Article 34 (Emergency Action). The requirement of a two-thirds majority* in relation to action by the Organization under the last sentence of the proviso to paragraph 4 would seem reasonable.
4. Article 35 (Impairment). A two-thirds majority* in relation to the third sentence of paragraph 2 seems reasonable.
5. Article 40 (e) and (f). (Findings and Recommendations). A two-thirds majority* seems reasonable.
6. Article 51 (London text) (Principles of commodity arrangements). A two-thirds majority requirement would not seem appropriate. It has already been suggested that voting provisions would have to be

* While the importance of these matters might seem to make 'Type 1' appropriate to them, it may be that the need for rapid decisions would be better met by 'Type 2'.

/settled

settled ad hoc in the light of the circumstances of particular commodity arrangements.

There are certain further instances where the proviso for a two-thirds majority should be considered.

1. Article 13 (Industrial Development). The two-thirds rule (Type 1) might be written into 3 (b) and (c) - permission to use measures inconsistent with obligations under the Charter.
2. Article 38, paragraph 4 (New preferences). The two-thirds rule (Type 1) is already specified as regards criteria and procedures (though not as regards the determination of particular applications or waiver), by the reference to Article 66 (2) and should remain.
3. Article 28 (exceptions from non-discrimination). There might be a case under paragraph 2 (determination that exceptions are being abused) for a two-thirds majority of Type 2.
