
SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENTCHAPTER VII - INTER-GOVERNMENTAL COMMODITY AGREEMENTS

Note: The following text of Chapter VII, "Intergovernmental Commodity Agreements", of the draft Charter of the proposed International Trade Organization has been approved in Commission at the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, in the light of the recommendations of the Preparatory Committee's Legal Drafting Committee. The text has yet to be approved in Plenary Session.

References in this text to other parts of the Charter retain the numbering of the New York text (Report of the Drafting Committee of the Preparatory Committee of the United Nations Conference on Trade and Employment E/PC/T/34). These references, as well as the numbering in this Chapter itself, will be adjusted as soon as the complete new text of the draft Charter is approved.

SECTION A - INTRODUCTORY CONSIDERATIONSARTICLE 46Difficulties relating to primary commodities

The Members recognise 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 jeopardising the general policy of economic expansion. The Members recognise that such difficulties may, at times, necessitate special treatment of the international trade^x in such commodities through inter-governmental agreement.

^xNote: In Article 46, in speaking of the need to adopt "special treatment of the international trade in such commodities", the Preparatory Committee had in mind merely that international trade is the aspect of a particular commodity problem directly appropriate for international treatment. It was understood, however, that agreement regarding the treatment of the international trade in a commodity might involve agreement regarding production or consumption of the commodity.

ARTICLE 47

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 utilisation, 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 Organisation finds that the conditions set forth in Article 53 exist in the case of a commodity which does not fall precisely under paragraphs 1 or 2 of this Article, the Organisation may decide that the provisions of this Chapter, together with any other requirements it may establish, shall apply to inter-governmental agreements regarding that commodity.

ARTICLE 48

Objectives of inter-governmental commodity agreements

The Members recognise that inter-governmental commodity agreements may be employed to achieve 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;
- (c) to 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;
- (f) to assure the equitable distribution of a primary commodity in short supply.

SECTION B - INTER-GOVERNMENTAL COMMODITY AGREEMENTS IN

GENERAL

ARTICLE 49

Commodity Studies

1. Any Member which is 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.
2. Unless it decides that a prima facie case has not been established, the Organisation shall promptly invite each Member to appoint representatives to a study group to make a study of the commodity if the Member considers that it is 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 Organisation its findings and its recommendations as to how best to deal with any special difficulties which may exist or may be expected to arise. The Organisation shall promptly transmit to the Members these findings and recommendations.

ARTICLE 50

Commodity Conferences

1. On the basis of the recommendations of a study group, or at the request of Members whose interest represents a substantial part of world production or consumption of, or trade in, a particular primary commodity, the Organisation shall promptly convene an inter-governmental conference to discuss measures designed to meet the special difficulties which exist or are expected to arise. The Organisation may also, on its own initiative, call such a conference on the basis of information agreed to be adequate by the Members substantially interested in the production or consumption of, or trade in, the commodity concerned.
2. Each Member which considers that it is 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 51

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 such terms as may be established in the agreement subject to approval by the Organisation;

(b) non-Members may be invited by the Organisation to participate in such agreements and the provisions of subparagraph (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 52

Types of Agreements

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

(a) commodity control agreements as defined in this Article; and

(k) 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 Organisation 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 Organisation 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. The Organisation may decide that 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 is not a commodity control agreement even though the agreement contains provision for the future application of minimum prices. However, any such agreement shall be deemed to be a commodity control agreement and shall conform to all the provisions of Section C from the date on which its minimum price provisions become operative.

6. The Members undertake not to enter into any new commodity control agreement, unless it has been recommended by a conference called in accordance with Article 50. If, in an exceptional case, there has been unreasonable delay in the proceedings of the study group or of the commodity conference, Members 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 it conforms to the other provisions of this Chapter.

SECTION C - INTER-GOVERNMENTAL COMMODITY
CONTROL AGREEMENTS

ARTICLE 53

Circumstances Governing the Use of Commodity Control Agreements

1. The Members agree that commodity control agreements may be employed only when it is determined 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 46, 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.

2. Determinations under this Article shall be made through the Organization by consultation and agreement among Members substantially interested in the commodity concerned.

ARTICLE 54

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 51:

(a) such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at reasonable prices* and, when practicable, shall provide for measures designed to expand world consumption of the commodity;

* Note: It is recognized that the term "reasonable" as applying to prices in sub-paragraph (a) is to be interpreted as in Article 48(c).

(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;

Note:

Under sub-paragraph (b) it is intended:

- (i) that there shall be no more than two groups of countries within an agreement, and that the principle of "equal voice" in substantive matters shall apply as between them;
- (ii) that countries which are large producers and consumers of the commodity concerned, but which are not large exporters or importers, shall have an appropriate voice.

It is recommended that any difference on voting arrangements which cannot be settled in a commodity conference should be dealt with in the same manner as laid down in Article 57(b) for the settlement of differences concerning commodity control agreements.

(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 55

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 54(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 agreement is terminated, the Organization shall take charge of the archives and statistical material of the Commodity Council.

ARTICLE 56

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 59, 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 57

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 58

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 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 59

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. Members shall conform with the decisions made by the Organization regarding their continued participation in any such inter-governmental commodity agreement which, after review by the Organization, shall have been found to be inconsistent 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. Members shall conform with decisions made by the Organization regarding their continued participation in any 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 60

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 61

Exceptions to Provisions Relating to Inter-governmental
Commodity Agreements

1. The provisions of this Chapter shall not apply:
 - (a) to any bilateral inter-governmental agreement relating to the purchase and sale of a commodity falling under Section E of Chapter V;
 - (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 VI or Chapter VII.
2. The provisions of Articles 49 and 50 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. 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.