

1947
NEW ZEALAND

UNITED NATIONS
CONFERENCE ON TRADE
AND EMPLOYMENT

REPORT ON THE SECOND SESSION ADOPTED BY
THE PREPARATORY COMMITTEE, AT GENEVA,
ON 22 AUGUST, 1947

Presented to both Houses of the General Assembly by Leave

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UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

PART I.—INTRODUCTION

I. ESTABLISHMENT OF THE PREPARATORY COMMITTEE

The Economic and Social Council at its First Session resolved on 18 February 1946 to call an International Conference on Trade and Employment for the purpose of promoting the expansion of production, exchange and consumption of goods. At the same time the Council constituted a Preparatory Committee to elaborate for the Conference an annotated draft agenda, including a draft convention, taking into account suggestions which might be submitted by the Council itself or by any member of the United Nations.

The Council also charged the Preparatory Committee with presenting recommendations regarding the date and place of the Conference on Trade and Employment and which States, if any, non-members of the United Nations, should be invited to the Conference.

2. STAGES IN THE WORK OF THE PREPARATORY COMMITTEE

The First Session of the Preparatory Committee was held in London from 15 October to 26 November 1946. In the course of this Session, a draft Charter for an International Trade Organization was prepared and embodied in a report which was distributed as document E/PC/T/33 and published.

The First Session appointed a Drafting Committee to meet as soon as possible after the First Session for the purpose of editing the draft Charter produced in London. The Drafting Committee met in New York from 20 January to 25 February 1947 and recorded the results of its work in a report which was distributed as document E/PC/T/34 and later published.

The Second Session of the Preparatory Committee was convened at the European Office of the United Nations in Geneva on 10 April 1947. During the course of this Session, the Preparatory Committee transmitted to the Fifth Session of the Economic and Social Council an interim report indicating the proposed outlines of the annotated draft agenda and convention which were being prepared for the full Conference and presenting recommendations concerning the date and place

of the Conference and the non-members of the United Nations which might be invited to the Conference. The relevant sections of this interim report are reproduced in Enclosure 1 to the present Report. The resolutions adopted by the Economic and Social Council relating to the recommendations in the interim report are reproduced in Enclosure 2. In accordance with those resolutions, the United Nations Conference on Trade and Employment is to be convened on 21 November 1947 at Havana, Cuba.

The Second Session of the Preparatory Committee continued the preparation of the draft Charter or convention. The draft adopted by the Preparatory Committee at the Second Session as a basis for discussion at the World Conference appears as Part II of the present Report. Although the Preparatory Committee has reached a large measure of agreement on the text to be recommended to the full Conference, it will be noted that the text is accompanied by a number of notes indicating the reservations which have been made and the interpretations of the text which are thought necessary in order to make the exact intention clear. Some of these latter notes enabled reservations to be withdrawn:

In view of the fact that changes have been made in the text of the draft Charter as it has progressed through the Preparatory Committee, and particularly in view of the fact that the order of the articles has been rearranged, the present report contains as Enclosure 4 tables setting forth in parallel columns the identifying numbers of comparable provisions in the versions of the draft Charter issued by the New York Drafting Committee and by the Second Session of the Preparatory Committee in order to facilitate a determination of the relationship between the present text and the earlier version.

In its present Report, the Preparatory Committee has refrained from enunciating in detail the principles underlying the draft Charter. It was felt by the Preparatory Committee that the observations presented in Part II of the Report of the First Session represented a general statement of the guiding principles which have been followed and developed in the work of the First Session, the Drafting Committee and the Second Session. Although the Report of the Second Session will constitute the agenda and basic "working paper" at the World Conference, the two earlier reports will be regarded as essential parts of the annotation thereto. It has seemed unnecessary to restate in the two later reports the principles set forth in the Report of the First Session or to indicate at length the alterations which were made during the Drafting Committee stage or during the Second Session, in order to take account of new considerations and to reconcile conflicting points of view.

Considering that the objectives underlying the endeavour to set up the I.T.O. would be promoted if concrete action were taken by the Members of the Preparatory Committee (which account for approximately 70% of world trade) to enter into reciprocal negotiations directed

to the substantial reduction of tariffs and other barriers to trade and to the elimination of preferences on a mutually advantageous basis, the governments represented on the Preparatory Committee adopted a resolution at the First Session regarding the carrying-out of such negotiations under its sponsorship in connection with, and as a part of, the Second Session. The governments represented at the Second Session of the Preparatory Committee are, at the time of the issuance of this report, in the final stages of the negotiations foreseen in the above-mentioned resolution. It is expected that the concessions resulting from these negotiations, together with such other provisions as may be appropriate, will shortly be incorporated in a General Agreement on Tariffs and Trade.¹

3. PARTICIPANTS IN THE WORK OF THE PREPARATORY COMMITTEE

All members of the Preparatory Committee², with the exception of the Union of Soviet Socialist Republics, took part in the work of the First and Second Sessions and of the Drafting Committee. The Union of Soviet Socialist Republics indicated that it did not feel able to participate in the work of the Preparatory Committee as it had not found it possible to devote sufficient preliminary study to the important questions which were the subject of the Committee's discussion.

Two specialized agencies³ and two other inter-governmental organizations⁴ were actively associated with all the proceedings and many members of the United Nations non-members of the Preparatory Committee⁵ and some non-governmental organizations in Category "A"⁶ sent observers who from time to time gave the Committee the benefit of their views.

¹ In view of the existence of a Customs Union between Syria and Lebanon, a Syrian delegation has taken part in the tariff negotiations and has been regarded as a contracting party in the General Agreement on Tariffs and Trade.

² The members are: Australia, Belgium-Luxemburg Economic Union, Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Netherlands, New Zealand, Norway, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, United States of America.

³ The Food and Agriculture Organization and the International Labour Organization.

⁴ The International Bank for Reconstruction and Development and the International Monetary Fund

⁵ Colombia, Denmark, Mexico, Peru, Poland and Syria sent observers to the First Session; Colombia and Mexico to the Drafting Committee, and the following countries to the Second Session, in addition to those represented at the First Session: Afghanistan, Argentina, Ecuador, Egypt, Greece, Iran, Saudi-Arabia, Siam, Sweden, Turkey, Uruguay, Venezuela, Yugoslavia.

⁶ The organizations were: American Federation of Labour, International Chamber of Commerce, International Co-operative Alliance, World Federation of Trade Unions. The International Federation of Agricultural Producers also submitted its views on certain points to the Second Session of the Preparatory Committee. The International Federation of Christian Trade Unions and the Interparliamentary Union were also invited to be represented.

4. ELECTED OFFICERS OF THE SECOND SESSION

Chairman : H.E. M. SUTENS (*Belgium*).

Vice-Chairmen—

First Vice-Chairman : H.E. ERIK COLBAN (*Norway*).

Second Vice-Chairman : Sir RAGHAVAN PILLAI (*India*).

H.E. Dr. ZDENEK AUGENTHALER (*Czechoslovakia*).

Mr. SERGIO I. CLARK (*Cuba*).

Hon. L. D. WILGESS (*Canada*).

*Commission A*¹—

Chairman : H.E. SUTENS (*Belgium*).

Vice-Chairmen : H.E. M. ERIK COLBAN (*Norway*).

H.E. ANTONIO DE VILHENA FERREIRA BRAGA
(*Brazil*).

*Commission B*¹—

Chairman : Hon. L. D. WILGESS (*Canada*).

Vice-Chairman : M. J. ROYER (*France*).

¹ In order to facilitate simultaneous discussion, the Preparatory Committee at the Second Session was divided into two commissions, each of which consisted of representatives of all Delegations. Commission A, and its sub-committees, prepared texts for consideration by the Preparatory Committee relating to the chapters on Employment and Economic Activity, Economic Development and General Commercial Policy (with the exception of the Articles relating to Subsidies). Similarly, Commission B prepared draft texts relating to the chapters on Purposes, Organization, Restrictive Business Practices and Inter-governmental Commodity Agreements, as well as the Articles on Subsidies. Each Commission established sub-committees for the further study of individual Articles or groups of Articles (see Enclosure 3). All drafts were reviewed at the final plenary meetings of the Preparatory Committee.

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CHAPTER I.—PURPOSE AND OBJECTIVES

Article 1

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

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

For the Purpose of

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

TO THIS END they pledge themselves, individually and collectively, to promote national and international action designed to attain the following objectives :

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

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

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

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

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

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

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

CHAPTER II.—EMPLOYMENT AND ECONOMIC ACTIVITY

Article 2

Importance of Employment, Production and Demand in relation to the Purpose of this Charter

1. The Members recognize that the avoidance of unemployment or under-employment through the achievement and maintenance in each country of useful employment opportunities for those able and willing to work and of a large and steadily growing volume of production and effective demand for goods and services is not of domestic concern alone but is also a necessary condition for the realization of the general purpose and the objectives set forth in Article 1 of this Charter, including the expansion of international trade, and thus for the well-being of all other countries.

2. The Members recognize that, while the avoidance of unemployment or under-employment must depend primarily on domestic measures, such measures should be supplemented by concerted action under the sponsorship of the Economic and Social Council of the United Nations in collaboration with the appropriate inter-governmental organizations, each of these bodies acting within its respective sphere and consistently with the terms and purposes of its basic instrument.

3. The Members recognize that the regular exchange of information and views among Members is indispensable for successful co-operation in the field of employment and economic activity and should be facilitated by the Organization.

Article 3

Maintenance of Domestic Employment

1. Each Member shall take action designed to achieve and maintain full and productive employment and large and steadily growing demand within its own territory through measures appropriate to its political, economic and social institutions.

2. Measures to sustain employment, production and demand shall be consistent with the other objectives and provisions of this Charter. Members shall seek to avoid measures which would have the effect of creating balance-of-payments difficulties for other countries.

Article 4

Fair Labour Standards

Each Member, recognizing that all countries have a common interest in the achievement and maintenance of fair labour standards related to productivity, shall take whatever action may be appropriate and

feasible to eliminate sub-standard conditions of labour in production for export and generally throughout its territory. Members which are also members of the International Labour Organization shall co-operate with that organization in giving effect to this undertaking.

Article 5

Removal of Maladjustments within the Balance of Payments

1. In the event that a persistent maladjustment within a Member's balance of payments is a major factor in a situation in which other Members are involved in balance-of-payments difficulties which handicap them in carrying out the provisions of Article 3 without resort to trade restrictions, the Member shall make its full contribution, while appropriate action shall be taken by the other Members concerned, towards correcting the situation.

2. Action in accordance with this Article shall be taken with due regard to the desirability of employing methods which expand rather than contract international trade.

Article 6

Exchange of Information and Consultation

1. The Members and the Organization shall participate in arrangements made or sponsored by the Economic and Social Council of the United Nations, including arrangements with appropriate inter-governmental organizations :

- (a) For the systematic collection, analysis and exchange of information on domestic employment problems, trends and policies, including as far as possible information relating to national income, demand and the balance of payments.
- (b) For consultation with a view to concerted action on the part of governments and inter-governmental organizations in the field of employment policies.

2. The Organization shall, if it considers that the urgency of the situation so requires, initiate consultations among Members with a view to their taking appropriate measures against the international spread of a decline in employment, production or demand.

Article 7

Safeguards for Members Subject to External Deflationary Pressure

The Organization shall have regard, in the exercise of its functions under other provisions of this Charter, to the need of Members to take action within the provisions of this Charter to safeguard their economies against deflationary pressure in the event of a serious or abrupt decline in the effective demand of other countries.

CHAPTER III.—ECONOMIC DEVELOPMENT

Article 8

Importance of Economic Development in Relation to the Purpose of this Charter

The Members recognize that all countries have a common interest in the productive use of the world's human and material resources, and that the industrial and general economic development of all countries, and particularly of those in which resources are as yet relatively undeveloped, will improve opportunities for employment, enhance the productivity of labour, increase the demand for goods and services, contribute to economic balance, expand international trade and raise levels of real income.

Article 9

Development of Domestic Resources and Productivity

Members shall within their respective territories take action designed progressively to develop, and where necessary to reconstruct, industrial and other economic resources and to raise standards of productivity through measures consistent with the other provisions of this Charter.

Article 10

Co-operation for Economic Development

1. Members shall co-operate with one another, with the Economic and Social Council of the United Nations, with the Organization and with other appropriate inter-governmental organizations in promoting industrial and general economic development.

2. Subject to any arrangements entered into between the Organization and the Economic and Social Council and appropriate inter-governmental organizations, the Organization shall, within its powers and resources, furnish any Member which so requests with appropriate advice concerning its plans and the financing and the carrying-out of its programmes for economic development, or shall assist it to procure such advice. Such advice or assistance shall be furnished upon terms to be agreed and in such collaboration with other appropriate inter-governmental organizations as will use fully the special competence of each of them. The Organization shall, upon the same conditions, likewise aid Members in procuring appropriate technical assistance.

Chapter III.

Wherever the term "industrial and general economic development" or the term "economic development" is used in this Chapter, it is intended also to include "reconstruction".

Article 11

Means of promoting Economic Development

1. Progressive industrial and general economic development requires among other things adequate supplies of capital funds, materials, modern equipment and technology, and technical and managerial skills. Accordingly, no Member shall impose unreasonable or unjustifiable impediments that would prevent other Members from obtaining on equitable terms any such facilities for their economic development, and the Members shall co-operate in accordance with Article 10, in providing or arranging for the provision of such facilities, within the limits of their power.

2. In order to stimulate and assure the provision and exchange of facilities for industrial and general economic development, no Member shall take unreasonable or unjustifiable action within its territories injurious to the rights or interests of nationals of other Members in the enterprise, skills, capital, arts or technology which they have supplied.

3. The Organization may make recommendations for and promote international agreement on measures designed to assure just and equitable treatment for the enterprise, skills, capital, arts and technology brought from one Member country to another, including the elaboration and adoption of a general agreement or statement of principles as to the conduct, practices and treatment of foreign investment.

4. The term "nationals" as used in Articles 11 and 12 comprises natural and legal persons.

Article 12

International Investment for Economic Development

1. The Members recognize that, with appropriate safeguards, including measures adequate to ensure that foreign investment is not used as a basis for interference in the internal affairs or national policies of Members, international investment, both public and private, can be of great value in promoting economic development and consequent social progress. They recognize that such development would be facilitated

Article 12.

The Delegation of Czechoslovakia reserved its position.

The Delegation of New Zealand entered a formal reservation pending further consideration.

The Delegation of Norway deferred for the time being its decision on the ground that it had not had sufficient time to study this Article.

Paragraph 3 of Article 12 (Drafting Committee Report, New York) was deleted on the ground that this subject was already covered by the provisions of Article 89. In this connection, without prejudice to the usual practice and procedure under the general principles of international law, it was agreed that deletion of paragraph 3 would carry no implication that a Member could not, as under other parts of the Charter, present a complaint to the Organization arising out of a violation of Articles 11 or 12 and affecting the interests of a national of such Member.

if Members were to afford, for international investments acceptable to them, reasonable opportunities upon equitable terms to the nationals of other Members and security for existing and future investments. Accordingly they agree to provide, consistent with the limitations recognized as necessary in this Article, the widest opportunities for investment and the greatest security for existing and future investments.

2. Subject to restrictions imposed in accordance with the Articles of Agreement of the International Monetary Fund or with a special exchange agreement entered into between the Member and the Organization under paragraph 6 of Article 24 of this Charter,

(a) With respect to existing investments or to future investments after they have been made, no Member shall impose, directly or indirectly, requirements on the investments of nationals of other members which are appreciably more onerous than those which the Member imposes in similar circumstances upon its own nationals or upon the nationals of third countries. Nevertheless the following shall not be deemed to be in conflict with this obligation :

(i) Requirements in force at the time of making the investment or at the time that the Charter shall have come into force with respect to the Member, whichever is later ;

Paragraph 2.

The word " just " in paragraphs 2 (a) (iv) and 2 (b) of Article 12 covers all aspects of the payment of consideration or compensation, including adequacy and time of payment, from the point of view both of the payer and of the receiver, and makes it clear that compensation would not be payable where, because of a violation of a law in force, property has been forfeited or taken under public management or occupation whether by executive action in accordance with pre-existing law or as a penalty under judicial procedure.

The provisions of paragraphs 2 (a) (iv) and 2 (b) are not applicable when the measures of transfer of ownership have been effected pursuant to the terms of a treaty of peace or in conformity with other international agreements related to the conclusion of the war.

The Belgian Delegation wishes to have it recorded that, even though the word " prior " has not been included in the text, its interpretation of just consideration or compensation would include the idea that the amount of consideration or compensation to be paid should be fixed " prior " to the property being taken into public ownership or placed under public management or occupation.

A Member's obligation to ensure the payment of just consideration or just compensation to a foreign national (insofar as it is an obligation to make payment in currency) is essentially an obligation to make payment in the local currency of that Member. The extent to which transfers of such payment into other currencies are to be allowed is for determination by the Member government in accordance with its general foreign exchange policy maintained consistently with the Articles of Agreement of the International Monetary Fund or with a special exchange agreement executed by that Member pursuant to Article 24 of the Charter. This shall not prevent a country taking action to give effect to any greater obligations in respect of such transfers as it may have accepted in an international agreement, provided that such action is consistent with its obligations under the Charter and under the Articles of Agreement of the International Monetary Fund. A Member would not, however, be fulfilling its obligation to ensure the payment of just consideration or just compensation if it restricted the transferability of such payments to a greater extent than required by its general foreign exchange policy as conditioned by the preceding sentence. In this connection, attention is invited to paragraph (i) of the Articles of Agreement of the International Monetary Fund.

(ii) Requirements in force at the time of any substantial addition to the investment or change in the nature of the business based upon the investment, in respect of such addition or such change ;

(iii) Reasonable measures to ensure participation under (iv) below, by the nationals of the Member in the future expansion of any branch of industry within its territories through increased investment ; *Provided* that, if the nationals of other Members whose interests are materially affected believe that the measure taken is inconsistent with the provisions of this paragraph, the Member taking the measure will provide adequate opportunity for consultation with a view to reaching a satisfactory settlement with the affected nationals ;

(iv) Reasonable measures taken to ensure the transfer of ownership, in whole or in part, of any investment within its territories from the nationals of any other Member to its own nationals, it being understood that such measures will provide for the payment of just consideration for the ownership transferred and that if the nationals of any other Member believe such provision has not been made, the Member will provide adequate opportunity for consultation in the manner described in (iii) above.

(b) Members shall make just compensation if the property, in which a national of another Member has an interest, is taken into public ownership or placed under public management or occupation.

3. Members shall promote co-operation between national and foreign enterprises or investors for the purpose of fostering economic development in cases where such co-operation appears to the Members concerned to be appropriate.

Article 13

Governmental Assistance to Economic Development

1. The Members recognize that special governmental assistance may be required to promote the establishment, development or reconstruction of particular industries, or particular branches of agriculture, and that in appropriate circumstances the grant of such assistance in the form of protective measures is justified. At the same time they recognize that an unwise use of such measures would impose undue burdens on their own economies, unwarranted restrictions on international trade and might increase unnecessarily the difficulties of adjustment for the economies of other countries.

2. (a) If a Member in the interest of its programme of economic development or reconstruction considers it desirable to adopt any non-discriminatory measure which would conflict with any provision of

Chapter IV or with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, such applicant Member shall so notify the Organization and shall transmit to the Organization a written statement of the considerations in support of the adoption of the proposed measure.

(b) The Organization shall promptly transmit such statement to all other Members, and any Member which considers that its trade would be substantially affected by the proposed measure shall transmit its views to the Organization within such period as shall be prescribed by the Organization.

(c) The Organization shall then promptly examine the proposed measure to determine whether it concurs in it, with or without modification, and shall in its examination have regard to the provisions of this Charter, to the considerations presented by the applicant Member and its stage of economic development or reconstruction, to the views presented by Members which may be substantially affected, and to the effect which the proposed measure, with or without modification, is likely to have on international trade.

3. (a) If as a result of its examination pursuant to paragraph 2 (c) of this Article the Organization concurs in principle in any proposed measure, with or without modification, which would be inconsistent with any obligation that the applicant Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, or which would tend to nullify or impair the benefit to such other Member or Members of any such obligation, the Organization shall sponsor and assist in negotiations between the applicant Member or Members which would be substantially affected with a view to obtaining substantial agreement. The Organization shall establish and communicate to the Members concerned a time schedule for such negotiations.

(b) Members shall commence the negotiations provided for in subparagraph (a) of this paragraph within such period as the Organization may prescribe and shall thereafter, unless the Organization decides otherwise, proceed continuously with such negotiations with a view to reaching substantial agreement in accordance with the time schedule laid down by the Organization.

(c) Upon substantial agreement being reached, the Organization may release the applicant Member from the obligation referred to in subparagraph (a) of this paragraph or from any other relevant obligation under this Charter, subject to such limitations as may have been agreed upon in the negotiations between the Members concerned.

4. (a) If, as a result of its examination pursuant to paragraph 2 (c) of this Article, the Organization concurs in any proposed measure, with or without modification, other than those provided for in paragraph 3 (a) of this Article, which would be inconsistent with any provision of Chapter IV, the Organization may release the applicant Member from

any obligation under such provision, subject to such limitations as the Organization may impose.

(b) If, having regard to the provisions of paragraph 2 (c), it is established in the course of such examination that such measure is unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under this Charter which could be imposed without undue difficulty and that it is the one most suitable for the purpose having regard to the economics of the industry or the branch of agriculture concerned and to the current economic condition of the applicant Member, the Organization shall concur in such measure and grant such release as may be required to make such measure effective.

(c) If in anticipation of the concurrence of the Organization in the adoption of a measure concerning which notice has been given under paragraph 2 of this Article, other than a measure provided for in paragraph 3 (a) of this Article, there should be an increase or threatened increase in the importations of the product or products concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the plans of the applicant Member for the establishment, development or reconstruction of the industry or industries concerned, or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with, the Organization, adopt such other measures as the situation may require pending a determination by the Organization, provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made under paragraph 2 of this Article.

5. (a) In the case of measures referred to in paragraph 3 of this Article, the Organization shall, at the earliest opportunity but ordinarily within fifteen days after receipt of the statement referred to in paragraph 2 (a) of this Article, advise the applicant Member of the date by which the Organization will notify it whether or not it concurs in principle in the proposed measure, with or without modification.

(b) In the case of measures referred to in paragraph 4 of this Article the Organization shall, as provided for in paragraph 5 (a), advise the

Article 13.

The Delegation of China reserved its position but indicated that it was prepared to recommend the text of this Article to its Government for further consideration without committing its Government and while reserving the right to request re-examination of this Article at the World Conference.

The Delegation of India reserved its position on this Article and the whole subject of quantitative restrictions for protective purposes while stating that it had reported the text of this Article to its Government and would make a further statement in this connection upon receipt of instructions from its Government.

The Delegation of Lebanon reserved its position pending the World Conference.

applicant Member of the date by which it will notify it whether or not it is released from such obligation or obligations as may be relevant ; *Provided* that, if the applicant Member does not receive a final reply by the date set by the Organization, it may, after communicating with the Organization, institute the proposed measure after the expiration of a further thirty days from such date.

Article 14

Transitional Measures

1. Any Member may maintain any non-discriminatory protective measure which has been imposed for the establishment, development or reconstruction of particular industries, or particular branches of agriculture, and which is not otherwise permitted by this Charter ; *Provided* that

- (a) Any such Member which is a signatory of the General Agreement on Tariffs and Trade shall have notified the other signatory governments not later than thirty days prior to the day of the signature of the Agreement of each product on which any such existing measure is to be maintained and of the nature and purpose of such measure, and
- (b) Any such Member not being a signatory of the General Agreement but having signed this Charter on the day of its general signature, shall have notified the other governments signing this Charter on that day, prior to their signature, of each product on which any such existing measure is to be maintained and of the nature and purpose of such measure, and
- (c) Any other such Member shall, prior to the day of its signature of this Charter, have notified the existing measures that it wishes to maintain to all Governments which signed the Charter on the day of its general signatures, or if this Charter has already entered into force, to the Members of the Organization. Any Member maintaining any such measure shall within one month of assuming Membership in the Organization notify it of the measure concerned, the considerations in support of its maintenance and the period for which it wishes to maintain the measure. The Organization shall, as soon as possible, but in any case within twelve months of such Member assuming Membership in the Organization, examine and give a decision concerning the measure as if it had been submitted to the Organization for its concurrence under Article 13.

2. The Organization, in making a decision under this Article specifying a date by which any modification in or withdrawal of the measure is to be made, shall have regard to the possible need of a Member for a suitable period of time in which to make such modification or withdrawal.

3. This Article shall not be construed to apply to a measure which would be inconsistent with any obligation that the Member concerned has assumed through negotiations with any other Member or Members pursuant to Chapter IV or which would tend to nullify or impair the benefit to such other Member or Members of any such obligation.

Article 15

Preferential Arrangements for Economic Development

1. The Members recognize that special circumstances may justify new preferential arrangements between two or more countries, not contemplating a customs union, in the interest of the programmes of economic development or reconstruction of one or more such countries. Subject to such limitations as it may impose, the Organization may grant [by an affirmative vote of two-thirds of the Members voting] an exception to the provisions of Chapter IV to permit such arrangements to be made.

2. Any Member or Members contemplating such an arrangement shall notify the Organization thereof and shall transmit to it a written statement of the considerations in support of the adoption of the arrangement. The Organization shall then examine and give a decision concerning the proposal as if it had been submitted for its concurrence under Article 13. Any country which would be accorded preferential treatment by another country under the proposed arrangement shall be regarded as an applicant Member for the purpose of that Article.

Article 14.

The Delegation of Lebanon reserved its position pending the World Conference.
Paragraph 1 (b) and (c).

The general signature referred to in sub-paragraphs (b) and (c) above is the signature contemplated at the conclusion of the World Conference.

Paragraph 1 (c).

The United States Delegation wishes to have it recorded that it assumes that sub-paragraph (c) is to be interpreted as permitting Members so notified effectively to question the nature and extent of such measures before the adherence of the Member proposing to maintain them becomes effective.

Article 15.

The Delegation of Brazil entered a reservation pending a decision on the question of voting requirements under this Article.

The Delegation of Chile reserved its position both with respect to the principle of prior approval and with respect to the voting requirements of a two-thirds majority if the latter is decided upon.

CHAPTER IV.—COMMERCIAL POLICY

SECTION A.—TARIFFS, PREFERENCES, AND INTERNAL TAXATION AND REGULATION

Article 16

General Most-favoured-nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 1 and 2 of Article 18, any advantage, favour, privilege or immunity granted by any Member to any product originating in or destined for any other country, shall be accorded immediately and unconditionally to the like product originating in or destined for all other Member countries respectively.

2. The provisions of paragraph 1 of this Article shall not require the elimination, except as provided in Article 17, of any preferences in respect of import duties or charges which do not exceed the levels provided for in paragraph 3 of this Article and which fall within the following descriptions :

- (a) Preferences in force exclusively between two or more of the territories listed in Annex A to this Charter, subject to the conditions set forth therein :
- (b) Preferences in force exclusively between two or more territories which on 1 July 1939 were connected by common sovereignty or relations of protection or suzerainty and which are listed in Annexes B, C, D and .. of this Charter, subject to the conditions set forth therein ;

Article 16.

The following kinds of customs action, taken in accordance with established uniform procedures, would not be contrary to a general binding of margins of preference :

(i) The re-application to an imported product of a tariff classification or rate of duty, properly applicable to such product, in cases in which the application of such classification or rate to such product was temporarily suspended or inoperative on 10 April 1947 ; and

(ii) The application to a particular commodity of a tariff item other than that which was actually applied to importations of that commodity on 10 April 1947, in cases in which the tariff law clearly contemplates that such commodity may be classified under more than one tariff item.

The Delegations of Chile and Lebanon reserved their position on this Article.

Paragraph 2.

The Delegation of Cuba reserved its position in relation to preferences accorded by differential internal taxes.

- (c) Preferences in force exclusively between the United States of America and the Republic of Cuba ;
- (d) Preferences in force exclusively between neighbouring countries listed in Annexes E, F and .. of this Charter.

3. The margin of preference on any product in respect of which a preference is permitted under paragraph 2 of this Article shall not exceed (a) the maximum margin provided for under the General Agreement on Tariffs and Trade or any subsequent operative agreement resulting from negotiations under Article 17, or (b) if not provided for under such agreements, the margin existing either on 10 April 1947 or on such earlier date as may have been established for a Member as a basis for negotiating the General Agreement on Tariffs and Trade, at the option of such Member.

Article 17

Reduction of Tariffs and Elimination of Preferences

1. Each Member shall, upon the request of the Organization, enter into and carry out with such other Member or Members as the Organization may specify, negotiations directed to the substantial reduction of tariffs and other charges on imports and exports and to the elimination of the preferences referred to in paragraph 2 of Article 16 on a reciprocal and mutually advantageous basis. These negotiations shall proceed in accordance with the following rules :

- (a) In the negotiations relating to any specific product
 - (i) when a reduction is negotiated only in the most-favoured-nation rate, such reduction shall operate automatically to reduce or eliminate the margin of preference applicable to that product ;
 - (ii) when a reduction is negotiated only in the preferential rate, the most-favoured-nation rate shall automatically be reduced to the extent of such reduction ;
 - (iii) when it is agreed that reductions will be negotiated in both the most-favoured-nation rate and the preferential rate, the reduction in each shall be that agreed by the parties to the negotiations ;
 - (iv) no margin of preference shall be increased.
- (b) The binding of low tariffs or of tariff-free treatment shall in principle be recognized as a concession equivalent in value to the substantial reduction of high tariffs or the elimination of tariff preferences.
- (c) Account shall be taken of any concessions which either Member is already extending to the other Member by virtue of previous negotiations regarding tariffs and preferences pursuant to this Article.

(d) The results of such negotiations shall be incorporated in the General Agreement on Tariffs and Trade, signed at..... on....., 1947 by agreement with the parties to that Agreement, and thereupon the parties to such negotiation shall become contracting parties to the General Agreement on Tariff Trade if they are not so already.

2. If any Member considers that any other Member has failed to fulfil its obligations under paragraph 1 of this Article, such Member may refer the matter to the Organization, which, after investigation, shall make appropriate recommendations to the Members concerned. If the Organization finds that a Member has failed without sufficient justification, having regard to its economic position and the provisions of the Charter as a whole, to carry out negotiations within a reasonable period of time in accordance with the requirements of paragraph 1 of this Article, the Organization may determine that any Member or Members shall, notwithstanding the provisions of Article 16, be entitled to withhold from the trade of the other Member any of the tariff benefits which may have been negotiated pursuant to paragraph 1 of this Article, and embodied in Part I of the General Agreement on Tariffs and Trade. If such benefits are in fact withheld, so as to result in the application to the trade of the other Member of tariffs higher than would otherwise have been applicable, such other Member shall then be free, within sixty days after such action is taken, to withdraw from the Organization upon the expiration of sixty days from the date on which written notice of such withdrawal is received by the Organization.

3. The provisions of this Article shall operate in accordance with the provisions of Article 81.

Article 17.

The provisions of this Article do not prevent Members from concluding new, or maintaining existing, bilateral tariff agreements which are not incorporated in the General Agreement on Tariffs and Trade, provided that such agreements are consistent with the relevant principles of Article 17 and that the concessions made by a Member under such agreements are generalized to all members in accordance with Article 16.

The Cuban Delegation reserved its position.

Paragraph 1.

The undertaking to negotiate regarding preferences necessarily implies that prior international commitments to grant particular preferences will not be permitted to frustrate the undertaking to negotiate. For this reason the provisions of subparagraph 1 (a) of the New York draft have been omitted from the Charter as being implicit.

Obviously any agreement reached affecting preferences provided for in any prior commitment would require, in order to be implemented, such change in the latter as might be necessary to give effect to the agreement. This change would either have to be agreed between the parties to the prior commitment or, if they could not agree, the party wishing to make the change, in order to proceed, would have to terminate the prior commitment in accordance with its terms.

Article 18

National Treatment on Internal Taxation and Regulation

1. The products of any Member country imported into any other Member country shall be exempted from internal taxes and other internal charges of any kind in excess of those applied directly or indirectly to like products of national origin. Moreover, in cases in which there is no substantial domestic production of like products of national origin, no Member shall apply new or increased internal taxes on the products of other Member countries for the purpose of affording protection to the production of directly competitive or substitutable products which are not similarly taxed; existing internal taxes of this kind shall be subject to negotiation for their reduction or elimination in the manner provided for in respect of tariffs and preferences under Article 17.

2. The products of any Member country imported into any other Member country shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use. This paragraph shall not prevent the application of differential transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

3. In applying the principles of paragraph 2 of this Article to internal quantitative regulations relating to the mixture, processing or use of products in specified amounts or proportions, the Members shall observe the following provisions :

- (a) No regulations shall be made which, formally or in effect, require that any specified amount or proportion of the product in respect of which such regulations are applied must be supplied from domestic sources;
- (b) No Member shall, formally or in effect, restrict the mixing, processing or use of a product of which there is no substantial domestic production with a view to affording protection to the domestic production of a directly competitive or substitutable product.

4. The provisions of paragraph 3 of this Article shall not apply to :

- (a) Any internal quantitative regulation relating to cinematograph films and meeting the requirements of Article 19;
- (b) Any other measures of internal quantitative control in force in any Member country on 1 July 1939 or 10 April 1947 at the option of that Member; *Provided* that any such measure

which would be in conflict with the provisions of paragraph 3 of this Article shall not be modified to the detriment of imports and shall be subject to negotiations for its limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17.

5. The provisions of this Article shall not apply to the procurement by governmental agencies of products purchased for governmental purposes and not for resale or use in the production of goods for sale, nor shall they prevent the payment to domestic producers only of subsidies provided for under Article 25, including payments to domestic producers derived from the proceeds of internal taxes or charges and subsidies effected through governmental purchases of domestic products.

Article 19

Special Provisions relating to Cinematograph Films

If any Member establishes or maintains internal quantitative regulations relating to exposed cinematograph films, such regulations shall take the form of screen quotas which shall conform to the following conditions and requirements :

- (a) Screen quotas may require the exhibition of cinematograph films of national origin during a specified minimum proportion of the total screen time actually utilized over a specified period of not less than one year in the commercial exhibition of all films of whatever origin, and shall be computed on the basis of screen time per theatre per year or the equivalent thereof.
- (b) With the exception of screen time reserved for films of national origin under a screen quota, no screen time, including screen time released by administrative action from minimum time reserved for films of national origin, shall formally or in effect be allocated among sources of supply.

Article 18.

The Delegation of Norway reserved its position on this Article.

Paragraph 1.

The Delegation of China reserved its position provisionally and proposed the deletion of the second and third sentences.

The Delegation of Chile reserved its position on the second and third sentences.

The Delegation of Cuba reserved its position and proposed a new paragraph permitting the exemption of domestic products from internal taxes for development purposes.

Paragraph 3.

The Chilean Delegation reserved its position.

Paragraph 4.

The New Zealand Delegation reserved its position on sub-paragraph (b) pending further consideration.

Paragraph 5.

The Delegation of China reserved its position provisionally and proposed to delete the words "or use in the production of goods for sale".

- (c) Notwithstanding the provisions of subparagraph (b) above, Members may maintain screen quotas conforming to the conditions of sub-paragraph (a) which reserve a minimum proportion of screen time for films of a national origin other than that of the Member imposing such screen quotas; *Provided* that no such minimum proportion of screen time shall be increased above the level in effect on 10 April 1947.
- (d) Screen quotas shall be subject to negotiation for their limitation, liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 17.
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Article 19.

The Delegation of the United Kingdom reserved its position for the time being.

SECTION B.—QUANTITATIVE RESTRICTIONS AND EXCHANGE CONTROLS

Article 20

General Elimination of Quantitative Restrictions

1. No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import, or export licences or other measures, shall be instituted or maintained by any Member on the importation of any product of any other Member country or on the exportation or sale for export of any product destined for any other Member country.

2. The provisions of paragraph 1 of this Article shall not extend to the following :

- (a) Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting Member country ;
- (b) Import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade ; if, in the opinion of the Organization, the standards or regulations adopted by a Member under this sub-paragraph have an unduly restrictive effect on trade, the Organization may request the Member to revise the standards or regulations ; *Provided* that it shall not request the revision of standards internationally agreed under paragraph 7 of Article 38 ;
- (c) Import restrictions on any agricultural or fisheries product, imported in any form, necessary to the enforcement of governmental measures which operate :
 - (i) To restrict the quantities permitted to be marketed or produced of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted ; or
 - (ii) To remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported products can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level ; or
 - (iii) To restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible.

Any Member applying restrictions on the importation of any product pursuant to this sub-paragraph shall give public notice of the total quantity or value of the product permitted to be imported during a specified future period and of any change in such quantity or value. Moreover, any restrictions applied under (i) above shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion which might reasonably be expected to rule between the two in the absence of restrictions. In determining this proportion, the Member shall pay due regard to the proportion prevailing during a previous representative period, and to any special factors which may have affected or may be affecting the trade in the product concerned.

3. Throughout this Section the terms "import restrictions" or "export restrictions" include restrictions made effective through State-trading operations.

Article 21

Restrictions to safeguard the Balance of Payments

1. Notwithstanding the provisions of paragraph 1 of Article 20, any Member, in order to safeguard its external financial position and balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the provisions of the following paragraphs of this Article.

2. (a) No Member shall institute, maintain or intensify import restrictions under this Article except to the extent necessary—

(i) To forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or

Article 20.

The Cuban Delegation reserved its position in view of the rejection of its proposal for excepting restrictions up to 50% of domestic consumption for promoting the maintenance, development or reconstruction of an industry.

The Chinese and Lebanese Delegations reserved their position in respect of the proposal by the Chinese Delegation to add a sub-paragraph 2 (d) providing a procedure for releasing a Member, without the prior approval of the Organization, from the obligation to refrain from import restrictions when the industry in question is of vital importance.

Paragraph 2 (c).

The Chilean Delegation reserved its position.

The term "in any form" in this paragraph covers the same products when in an early stage of processing and still perishable, which compete directly with the fresh product and if freely imported would tend to make the restriction on the fresh product ineffective.

Paragraph 2: last sub-paragraph.

The term "special factors" includes changes in relative productive efficiency as between domestic and foreign producers, or as between different foreign producers, but not changes artificially brought about by means not permitted under the Charter.

(ii) In the case of a Member with very low monetary reserves, to achieve a reasonable rate of increase in its reserves ; due regard being paid in either case to any special factors which may be affecting the Member's reserves or need for reserves, including where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.

(b) Members applying restrictions under sub-paragraph (a) shall progressively relax them as such conditions improve, maintaining them only to the extent that the conditions specified in that sub-paragraph still justify their application. They shall eliminate the restrictions when conditions would no longer justify their institution or maintenance under that sub-paragraph.

3. (a) The Members recognize that in the early years of the Organization all of them will be confronted in varying degrees with problems of economic adjustment resulting from the war. During this period the Organization shall, when required to take decisions under this Article or under Article 23, take full account of the difficulties of post-war adjustment and of the need which a Member may have to use import restrictions as a step towards the restoration of equilibrium in its balance of payments on a sound and lasting basis.

(b) The Members recognize that, as a result of domestic policies directed toward the fulfilment of a Member's obligations under Article 3 relating to the achievement and maintenance of full and productive employment and large and steadily growing demand or its obligations under Article 9 relating to the reconstruction or development of industrial and other economic resources and to the raising of standards of productivity, such a Member may experience a high level of demand for imports. Accordingly :

(i) Notwithstanding the provisions of paragraph 2 of this Article no Member shall be required to withdraw or modify restrictions on the ground that a change in such policies would render unnecessary the restrictions which it is applying under this Article.

(ii) Any Member applying import restrictions under this Article may determine the incidence of the restrictions on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential in the light of such policies.

(c) Members undertake, in carrying out their domestic policies :

(i) To pay due regard to the need for restoring equilibrium in their balance of payments on a sound and lasting basis and to the desirability of assuring an economic employment of productive resources ;

- (ii) Not to apply restrictions so as to prevent unreasonably the importation of any description of goods in minimum commercial quantities, the exclusion of which would impair regular channels of trade, or restrictions which would prevent the importation of commercial samples, or prevent compliance with patent, trademark, copyright, or similar procedures ; and
- (iii) To apply restrictions under this Article in such a way as to avoid unnecessary damage to the commercial or economic interests of any other Member.

4. (a) Any Member which is not applying restrictions under this Article, but is considering the need to do so, shall, before instituting such restrictions (or, in circumstances in which prior consultation is impracticable, immediately after doing so), consult with the Organization as to the nature of its balance-of-payments difficulties, alternative corrective measures which may be available, and the possible effect of such measures on the economies of other Members. No Member shall be required in the course of consultations under this sub-paragraph to indicate in advance the choice or timing of any particular measure which it may ultimately determine to adopt.

(b) The Organization may at any time invite any Member which is applying import restrictions under this Article to enter into such consultations with it, and shall invite any Member substantially intensifying such restrictions to consult within thirty days. A Member thus invited shall participate in such discussions. The Organization may invite any other Member to take part in these discussions. Not later than two years from the day on which this Charter enters into force, the Organization shall review all restrictions existing on that day and still applied under this Article at the time of the review.

(c) Any Member may consult with the Organization with a view to obtaining the prior approval of the Organization for restrictions which the Member proposes, under this Article, to maintain, intensify or institute, or for the maintenance, intensification or institution of restrictions under specified future conditions. As a result of such consultations, the Organization may approve in advance the maintenance, intensification or institution of restrictions by the Member in question insofar as the general extent, degree of intensity and duration of the restrictions are concerned. To the extent to which such approval has been given, the requirements of sub-paragraph (a) of this paragraph shall be deemed to have been fulfilled, and the action of the Member applying the restrictions shall not be open to challenge under sub-paragraph (d) of this paragraph on the ground that such action is inconsistent with the provisions of paragraph 2 of this Article.

(d) Any Member which considers that another Member is applying restrictions under this Article inconsistently with paragraph 2 or 3 of this Article or with Article 22 (subject to the provisions of Article 23) may bring the matter for discussion to the Organization; and the Member applying the restrictions shall participate in the discussion. The Organization, if it is satisfied that there is a *prima facie* case that the trade of the Member initiating the procedure is adversely affected, shall submit its views to the parties with the aim of achieving a settlement of the matter in question which is satisfactory to the parties and to the Organization. If no such settlement is reached and if the Organization determines that the restrictions are being applied inconsistently with paragraph 2 or 3 of this Article or with Article 22 (subject to the provisions of Article 23), the Organization shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified in accordance with the recommendation of the Organization within sixty days, the Organization may release any Member from specified obligations under this Charter, towards the Member applying the restrictions.

(e) It is recognized that premature disclosure of the prospective application, withdrawal or modification of any restriction under this Article might stimulate speculative trade and financial movements which would tend to defeat the purposes of this Article. Accordingly, the Organization shall make provision for the observance of the utmost secrecy in the conduct of any consultation.

5. If there is a persistent and widespread application of import restrictions under this Article, indicating the existence of a general disequilibrium which is restricting international trade, the Organization shall initiate discussions to consider whether other measures might be taken, either by those Members whose balances of payments are under pressure or by those Members whose balances of payments are tending to be exceptionally favourable, or by any appropriate inter-governmental organization, to remove the underlying causes of the disequilibrium. On the invitation of the Organization, Members shall participate in such discussions.

Article 21.

The Belgian Delegation reserved its position pending examination of the Charter as a whole by the Belgian Government.

Paragraph 2.

The Australian Delegation recorded a reservation against the text of paragraph 2 (b) on the ground that the present language does not accurately express the intended meaning.

Paragraph 3 (b) (i).

The phrase "notwithstanding the provisions of paragraph 2 of this Article" has been included in the text to make it quite clear that a Member's import restrictions otherwise "necessary" within the meaning of sub-paragraph 2 (a) shall not be considered unnecessary on the ground that a change in domestic policies as referred to in the text could improve a Member's monetary reserve position. The phrase is not intended to suggest that the provisions of paragraph 2 are affected in any other way.

Article 22

Non-discriminatory Administration of Quantitative Restrictions

1. No prohibition or restriction shall be applied by any Member on the importation of any product of any other Member country or on the exportation of any product destined for any other Member country, unless the importation of the like product of all third countries or the exportation of the like product to all third countries is similarly prohibited or restricted.

2. In applying import restrictions to any product, Members shall aim at a distribution of trade in such product approaching as closely as possible to the shares which the various Member countries might be expected to obtain in the absence of such restrictions, and to this end shall observe the following provisions :

- (a) Wherever practicable, quotas representing the total amount of permitted imports (whether allocated among supplying countries or not) shall be fixed, and notice given of their amount in accordance with paragraph 3 (b) of this Article ;
- (b) In cases in which quotas are not practicable, the restrictions may be applied by means of import licences or permits without a quota ;
- (c) Members shall not, except for purposes of operating quotas allocated in accordance with sub-paragraph (d) of this paragraph, require that import licences or permits be utilized for the importation of the product concerned from a particular country or source ;
- (d) In cases in which a quota is allocated among supplying countries, the Member applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other Members having a substantial interest in supplying the product concerned. In cases in which this method is not reasonably practicable, the Member concerned shall allot to Member countries having a substantial interest in supplying the product, shares based upon the proportions, supplied by such Member countries during a previous representative period, of the total quantity or value of imports of the product, due account being taken of any special factors which may have affected or may be affecting the trade in the product. No conditions or formalities shall be imposed which would prevent any Member from utilizing fully the share of any such total quantity or value which has been allotted to it, subject to importation being made within any prescribed period to which the quota may relate.

3. (a) In cases in which import licences are issued in connection with import restrictions, the Member applying the restriction shall provide upon the request of any Member having an interest in the trade in the

product concerned, all relevant information concerning the administration of the restriction, the import licences granted over a recent period and the distribution of such licences among supplying countries; *Provided* that there shall be no obligation to supply information as to the names of importing or supplying enterprises.

(b) In the case of import restrictions involving the fixing of quotas, the Member applying the restrictions shall give public notice of the total quantity or value of the product or products which will be permitted to be imported during a specified future period and of any change in such quantity or value. Any supplies of the product in question which were *en route* at the time at which public notice was given shall not be excluded from entry; *Provided* that they may be counted, so far as practicable, against the quantity permitted to be imported in the period in question, and also, where necessary, against the quantities permitted to be imported in the next following period or periods, and *Provided* further that if any Member customarily exempts from such restrictions products entered for consumption or withdrawn from warehouse for consumption during a period of thirty days after the day of such public notice, such practice shall be considered full compliance with this sub-paragraph.

(c) In the case of quotas allocated among supplying countries the Member applying the restriction shall promptly inform all other Members having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall give public notice thereof.

4. With regard to restrictions applied in accordance with paragraph 2 (d) of this Article or under paragraph 2 (c) of Article 20, the selection

Article 22.

Paragraph 2, sub-paragraph (d).

The Preparatory Committee omitted the phrase establishing "commercial considerations" as a rule for the allocation of quotas, because it was considered that its application by governmental authorities might not always be practicable. Moreover, in cases where it was practicable, a Member could apply this consideration in the process of seeking agreement, consistently with the general rule laid down in the opening sentence of paragraph 2.

Paragraph 3, sub-paragraphs (b) and (c).

The Czechoslovak Delegation reserved its position on the requirement of public notice in sub-paragraphs (b) and (c). The Czechoslovak Delegation, while not opposed to the principle of public notice, cannot accept it as an immediate obligation, as long as the countries with whom Czechoslovakia has been conducting the major part of her foreign trade are not following a similar procedure. The obligation of giving public notice of global quotas and of the allocation of shares is, in the particular situation of Czechoslovakia, too rigid a rule and, unless practised generally, liable to have a harmful effect upon the expansion of foreign trade in general, and the economic interests of Czechoslovakia in particular. In the view of the Czechoslovak Delegation it should be sufficient to supply full information to Members substantially interested in the exportation of the respective commodity.

Paragraph 4.

See note relating to "special factors" in connection with the last sub-paragraph of paragraph 2 of Article 20.

of a representative period for any product and the appraisal of any special factors affecting the trade in the product shall be made initially by the Member applying the restriction ; *Provided* that such Member shall, upon the request of any other Member having a substantial interest in supplying that product or upon the request of the Organization, consult promptly with the other Member or the Organization regarding the need for an adjustment of the proportion determined or of the base period selected or for the re-appraisal of the special factors involved, or for the elimination of conditions, formalities or any other provisions established unilaterally upon the allocation of an adequate quota or its unrestricted utilization.

5. The provisions of this Article shall apply to any tariff quota instituted or maintained by any Member and, insofar as applicable, the principles of this Article shall also extend to export restrictions and to any internal regulation or requirements under paragraph 2 of Article 18.

Article 23

Exceptions to the Rule of Non-discrimination

1. (a) The Members recognize that when a substantial and widespread disequilibrium prevails in international trade and payments a Member applying restrictions under Article 21 may be able to increase its imports from certain sources without unduly depleting its monetary reserves, if permitted to depart from the provisions of Article 22. The Members also recognize the need for close limitation of such departures so as not to handicap achievement of multilateral international trade.

(b) Accordingly, when a substantial and widespread disequilibrium prevails in international trade and payments a Member applying import restrictions under Article 21 may relax such restrictions in a manner which departs from the provisions of Article 22 to the extent necessary to obtain additional imports above the maximum total of imports which it could afford in the light of the requirements of paragraph 2 of Article 21 if its restrictions were fully consistent with Article 22 ; *Provided* that

- (i) Levels of delivered prices for products so imported are not established substantially higher than those ruling for comparable goods regularly available from other Members, and that any excess of such price levels for products so imported is progressively reduced over a reasonable period ;
- (ii) The Member taking such action does not do so as part of any arrangement by which the gold or convertible currency which the Member currently receives directly or indirectly from its exports to other Members not party to the arrangement is appreciably reduced below the level it could otherwise have been reasonably expected to attain ;
- (iii) Such action does not cause unnecessary damage to the commercial or economic interests of any other Member.

(c) Any Member taking action under this paragraph shall observe the principles of sub-paragraph (b) of this paragraph. A Member shall desist from transactions which prove to be inconsistent with that sub-paragraph but the Member shall not be required to satisfy itself, when it is not practicable to do so, that the requirements of that sub-paragraph are fulfilled in respect of individual transactions.

(d) Members undertake in framing and carrying out any programmes for additional imports under this paragraph to pay due regard to the need to facilitate the termination of any exchange arrangements which deviate from the obligations of Sections 2, 3 and 4 of Article VIII of the Articles of Agreement of the International Monetary Fund and to the need to restore equilibrium in their balances of payments on a sound and lasting basis.

2. Any Member taking action under paragraph 1 of this Article shall keep the Organization regularly informed regarding such action and shall provide such available relevant information as the Organization may request.

3. (a) Not later than 1 March 1952 (five years after the date on which the International Monetary Fund began operations) and in each year thereafter, any Member maintaining or proposing to institute action under paragraph 1 of this Article shall seek the approval of the Organization, which shall thereupon determine whether the circumstances of the Member justify the maintenance or institution of action by it under paragraph 1 of this Article. After 1 March 1952 no Member shall maintain or institute such action without determination by the Organization that the Member's circumstances justify the maintenance or institution of such action, as the case may be, and the subsequent maintenance or institution of such action by the Member shall be subject to any limitations which the Organization may prescribe for the purpose of ensuring compliance with the provisions of paragraph 1 of this Article; *Provided* that the Organization shall not require that prior approval be obtained for individual transactions.

(b) If at any time the Organization finds that import restrictions are being applied by a Member in a discriminatory manner inconsistent with the exceptions provided for under paragraph 1 of this Article, the Member shall, within sixty days, remove the discrimination or modify it as specified by the Organization; *Provided* that any action under paragraph 1 of this Article, to the extent that it has been approved by the Organization under sub-paragraph (a) of this paragraph or to the extent that it has been approved by the Organization at the request of a Member under a procedure analogous to that of paragraph 4 (c) of Article 21, shall not be open to challenge under this sub-paragraph or under paragraph 4 (d) of Article 21 on the ground that it is inconsistent with Article 22.

(c) Not later than 1 March 1950, and in each year thereafter so long as any Members are taking action under paragraph 1 of this Article, the Organization shall report on the action still taken by Members under that paragraph. On or about 1 March 1952, and in each year thereafter so long as any Members are taking action under paragraph 1 of this Article, and at such times thereafter as the Organization may decide, the Organization shall review the question of whether there then exists such a substantial and widespread disequilibrium in international trade and payments as to justify resort to paragraph 1 of this Article by Members. If it appears at any date prior to 1 March 1952 that there has been a substantial and general improvement in international trade and payments, the Organization may review the situation at that date. If, as a result of any such review, the Organization determines that no such disequilibrium exists, the provisions of paragraph 1 of this Article shall be suspended, and all actions authorized thereunder shall cease six months after such determination.

4. The provisions of Article 22 shall not preclude restrictions in accordance with Article 21 which either

- (a) Are applied against imports from other countries, but not as among themselves, by a group of territories having a common quota in the International Monetary Fund on condition that such restrictions are in all other respects consistent with Article 22, or
- (b) Assist, in the period until 31 December 1951, by measures not involving substantial departure from the provisions of Article 22, another country whose economy has been disrupted by war.

5. The provisions of this Section shall not preclude :

- (a) Restrictions with equivalent effect to exchange restrictions authorized under Section 3 (b) of Article VII of the Articles of Agreement of the International Monetary Fund ; or
- (b) Restrictions under the preferential arrangements provided for in Annex A of this Charter, subject to the conditions set forth therein.

Article 23.

The Delegations of Czechoslovakia, Chile and Norway recorded a reservation.

The Belgian Delegation reserved its position pending examination of the Charter as a whole by the Belgian Government.

Paragraph 3.

The Preparatory Committee considered the question of whether it was necessary to make express reference in paragraph 3 of Article 23 to the need of the Organization to consult with the International Monetary Fund. It concluded that no such reference was necessary since such consultation in all appropriate cases was already required by virtue of the provisions of paragraph 2 of Article 24.

Paragraph 5 (b).

The Brazilian Delegation has recorded a reservation.

Article 24

Exchange Arrangements

1. The Organization shall seek co-operation with the International Monetary Fund to the end that the Organization and the Fund may pursue a co-ordinated policy with regard to exchange questions within the jurisdiction of the Fund and questions of quantitative restrictions and other trade measures within the jurisdiction of the Organization.

2. In all cases in which the Organization is called upon to consider or deal with problems concerning monetary reserves, balance of payments or foreign exchange arrangements, the Organization shall consult fully with the International Monetary Fund. In such consultation, the Organization shall accept all findings of statistical and other facts presented by the International Monetary Fund relating to foreign exchange, monetary reserves and balance of payments, and shall accept the determination of the Fund as to whether action by a Member in exchange matters is in accordance with the Articles of Agreement of the International Monetary Fund, or with the terms of a special exchange agreement between that Member and the Organization. The Organization, in reaching its final decision in cases involving the criteria set forth in paragraph 2 (a) of Article 21 shall accept the determination of the International Monetary Fund as to what constitutes a serious decline in the Member's monetary reserves, a very low level of its monetary reserves or a reasonable rate of increase in its monetary reserves, and as to the financial aspects of other matters covered in consultation in such cases.

3. The Organization shall seek agreement with the International Monetary Fund regarding procedures for consultation under paragraph 2 of this Article. Any such agreement, other than informal arrangements of a temporary or administrative character, shall be subject to confirmation by the Conference.

4. Members shall not, by exchange action, frustrate the intent of the provisions of this Section, nor, by trade action, the intent of the provisions of the Articles of Agreement of the International Monetary Fund.

5. If the Organization considers, at any time, that exchange restrictions on payments and transfers in connection with imports are being applied by a Member in a manner inconsistent with the exceptions provided in this Section for quantitative restrictions, it shall report thereon to the International Monetary Fund.

6. Any Member of the Organization which is not a member of the International Monetary Fund shall, within a time to be determined by the Organization after consultation with the International Monetary Fund, become a member of the Fund or, failing that, enter into a special exchange agreement with the Organization. A Member of the

Organization which ceases to be a member of the International Monetary Fund shall forthwith enter into a special exchange agreement with the Organization. Any special exchange agreement entered into by a Member under this paragraph shall thereupon become part of its obligations under this Charter.

7. (a) A special exchange agreement between a Member and the Organization under paragraph 6 of this Article shall provide to the satisfaction of the Organization that the objectives of this Charter will not be frustrated as a result of action in exchange matters by the Member in question.

(b) The terms of any such agreement shall not impose obligations on the Member in exchange matters generally more restrictive than those imposed by the Articles of Agreement of the International Monetary Fund on members of the Fund.

8. A Member which is not a member of the International Monetary Fund shall furnish such information within the general scope of Section 5 of Article VIII of the Articles of Agreement of the International Monetary Fund, as the Organization may require in order to carry out its functions under this Charter.

9. Subject to paragraph 4 of this Article, nothing in this Section shall preclude

(a) The use by a Member of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund or with that Member's special exchange agreement with the Organization, or

(b) The use by a Member of restrictions or controls on imports or exports, the sole effect of which, additional to the effects permitted under Articles 20, 21, 22 and 23, is to make effective such exchange controls or exchange restrictions.

Article 24.

The Belgian Delegation reserved its position pending examination of the Charter as a whole by the Belgian Government.

Paragraph 2.

The Australian Delegation recorded a reservation against this text, proposing the following formulation of the last sentence:

"The Organization, in reaching its final decision in cases involving the criteria set forth in paragraph 2 (a) of Article 21 shall *give special weight to the opinions of the International Monetary Fund as to what constitutes . . . in consultation in such cases*"

on the ground that since the Organization has a responsibility for action under Article 21, it should also retain the right of final decision as to whether the criteria of paragraph 2 (a) have been met.

The New Zealand Delegation also recorded a reservation on the last sentence of paragraph 2.

Paragraph 4.

The word "frustrate" is intended to indicate, for example, that infringements by exchange action of the letter of any Article of this Charter shall not be regarded as offending against that Article if, in practice, there is no appreciable departure from the intent of the Article. Thus a Member which, as part of its exchange control, operated in accordance with the Articles of Agreement of the International Monetary Fund, required payment to be received for its exports in its own currency or in the currency of one or more members of the International Monetary Fund would not thereby be deemed to be offending against Article 20 or Article 22. Another example would be that of a Member which specified on an import licence the country from which the goods might be imported for the purpose not of introducing any additional element of discrimination in its import licences but of enforcing permissible exchange controls

SECTION C.—SUBSIDIES

Article 25

Subsidies in General

If any Member grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, the Member shall notify the Organization in writing of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from the territory of the Member and of the circumstances making the subsidization necessary. In any case in which it is determined that serious prejudice to the interest of any other Member is caused or threatened by any such subsidization, the Member granting the subsidy shall, upon request, discuss with the other Member or Members concerned, or with the Organization, the possibility of limiting the subsidization.

Article 26

Additional Provisions on Export Subsidies

1. No Member shall grant, directly or indirectly, any subsidy on the exportation of any product, or establish or maintain any other system, which subsidy or system results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, due allowance being made for differences in the conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. Notwithstanding the provisions of paragraph 1 of this Article a Member may exempt exported products from duties or taxes imposed in respect of like products when consumed domestically, or may remit such duties or taxes which have accrued. The use of the proceeds of such duties or taxes to make payments to domestic producers, however, shall be considered as a case under Article 25 except in so far as such payments subsidize exportation, in the sense of paragraph 1 of this Article, by more than the amount of the duties or taxes remitted or not imposed, in which case the provisions of paragraph 1 of this Article shall apply to such excess payments.

3. Members shall give effect to the provisions of paragraph 1 of this Article at the earliest practicable date, but in any event not later than two years from the day on which this Charter enters into force. If any Member considers itself unable to do so in respect of any specified

product or products, it shall, at least three months before the expiration of such period, give notice in writing to the Organization, requesting a specific extension of the period. Such notice shall be accompanied by a complete analysis of the system in question and the effects justifying it. It shall then be determined whether the extension requested should be made.

4. Notwithstanding the provisions of paragraph 1 of this Article, any Member may subsidize the exports of any product to the extent and for such time as may be necessary to offset a subsidy granted by a non-Member affecting the Member's exports of the product. However, the Member shall, upon the request of the Organization or of any other Member which considers that its interests are adversely affected by such action, consult with that Member or with the Organization with a view to reaching a satisfactory adjustment of the matter.

Article 27

Special Treatment of Primary Commodities

1. A system for the stabilization of the domestic price or of the return to domestic producers of a primary commodity, independently of the movements of export prices, which results at times in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, shall be considered not to involve a subsidy on exportation within the meaning of paragraph 1 of Article 26, if it is determined :

- (a) That the system has also resulted in the sale of the product for export at a price higher than the comparable price charged for the like product to buyers in the domestic market, and
- (b) That the system is so operated, either because of the effective regulation of production or otherwise, as not to stimulate exports unduly or otherwise seriously prejudice the interests of other Members.

2. In any case of subsidization of a primary commodity, if a Member considers that its interests are seriously prejudiced by the subsidy or if the Member granting the subsidy considers itself unable to comply with the provision of paragraph 3 of Article 26 within the time limit laid down therein, the difficulty may be deemed to be a special difficulty under Chapter VI, and in that event the procedure laid down in that Chapter shall be followed.

3. If the measures provided for in Chapter VI have not succeeded, or do not promise to succeed, within a reasonable period of time, either because no agreement has been reached or because the agreement is terminated, any Member adversely affected may apply for exemption

Article 26.

The Cuban Delegation reserved its position.

from the requirements of paragraphs 1 and 3 of Article 26 in respect of that commodity. If it is determined that the circumstances described in Article 59 apply to the commodity concerned and that the subsidization will not be so operated as to stimulate exports unduly or otherwise seriously prejudice the interests of other Members, the Organization shall grant such exemption for such period and within such limits as may be determined.

Article 28

Undertaking regarding Stimulation of Exports

Notwithstanding the provisions of paragraphs 1, 2 and 3 of Article 26 and of paragraph 3 of Article 27, no Member shall grant any subsidy on the exportation of any product which has the effect of acquiring for that Member a share of world trade in that product in excess of the share which it had during a previous representative period, account being taken insofar as practicable of any special factors which may have affected or may be affecting the trade in that product. The selection of a representative period for any product and the appraisal of any special factors affecting the trade in the product shall be made initially by the Member granting the subsidy; *Provided* that such Member shall, upon the request of any other Member having an important interest in the trade in that product, or upon the request of the Organization, consult promptly with the other Member or with the Organization regarding the need for an adjustment of the base period selected or for the re-appraisal of the special factors involved.

Article 29

Procedure

Any determination provided for in, or appropriate to the operation of, this Section shall be made through the Organization by consultation and agreement among the Members substantially interested in the product concerned.

Article 27, paragraph 3.

The United States Delegation reserved its position on paragraph 3 of Article 27 and on Article 28.

SECTION D.—STATE TRADING

Article 30

Non-discriminatory Treatment

1. (a) Each Member undertakes that if it establishes or maintains a State enterprise, wherever located, or grants to any enterprise, formally or in effect, exclusive or special privileges, such enterprise shall, in its purchases or sales involving either imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment applied in this Charter to governmental measures affecting imports or exports by private traders.

(b) The provisions of sub-paragraph (a) of this paragraph shall be understood to require that such enterprises shall, having due regard to the other provisions of this Charter, make any such purchases or sales solely in accordance with commercial considerations, including prices, quality, availability, marketability, transportation and other conditions of purchase or sale, and shall afford the enterprises of the other Members adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.

(c) No Member shall prevent any enterprise (whether or not an enterprise described in sub-paragraph (a) of this paragraph) under its

Article 30.

Paragraph 1.

The operations of Marketing Boards which are established by Members and are engaged in purchasing or selling, are subject to the provisions of sub-paragraphs (a) and (b).

The activities of Marketing Boards which are established by Members and which do not purchase or sell but lay down regulations covering private trade are governed by the relevant Articles of this Charter.

The charging by a State enterprise of different prices for its sales of a product in different markets is not precluded by the provisions of this Article, provided that such different prices are charged for commercial reasons, to meet conditions of supply and demand in export markets.

Sub-paragraph 1 (a).

Governmental measures imposed to ensure standards of quality and efficiency in the execution of external trade, or privileges granted for the exploitation of national natural resources but which do not empower the government to exercise control over the trading activities of the enterprise in question, do not constitute "exclusive or special privileges". The Belgian Delegation reserved its position on this note.

Sub-paragraph 1 (b).

A country receiving a "tied loan" is free to take this loan into account as a "commercial consideration" when purchasing requirements abroad.

Paragraph 2.

The term "goods" is limited to products as understood in commercial practice, and is not intended to include the purchase or sale of services.

jurisdiction from acting in accordance with the principles of sub-paragraphs (a) and (b) of this paragraph.

2. The provisions of paragraph 1 of this Article shall not apply to imports of products for immediate or ultimate consumption in governmental use and not otherwise for resale or for use in the production of goods for sale. With respect to such imports, the Members shall accord to the trade of the other Members fair and equitable treatment.

Article 31

Expansion of Trade

1. If any Member establishes, maintains or authorizes, formally or in effect, a monopoly of the importation or exportation of any product, such Member shall, upon the request of any other Member or Members having a substantial interest in trade with it in the product concerned, negotiate with such Member or Members in the manner provided for under Article 17 in respect of tariffs, and subject to all the provisions of this Charter with respect to such tariff negotiations, with the object of achieving :

(a) In the case of an export monopoly, arrangements designed to limit or reduce any protection that might be afforded through the operation of the monopoly to domestic users of the monopolized product or designed to assure exports of the monopolized product in adequate quantities at reasonable prices ; or

(b) In the case of an import monopoly, arrangements designed to limit or reduce any protection that might be afforded through the operation of the monopoly to domestic producers of the monopolized product, or designed to prevent any limitation of imports to an extent inconsistent with the provisions of this Charter.

2. In order to satisfy the requirements of sub-paragraph 1 (b) of this Article, the Member maintaining a monopoly shall negotiate

(a) For the establishment of the maximum import duty that may be imposed in respect of the product concerned ; or

(b) For any other mutually satisfactory arrangement consistent with the provisions of this Charter if it is evident to the negotiating parties that to negotiate a maximum import duty under sub-paragraph (a) of this paragraph is impracticable or would be ineffective for the achievement of the objectives of paragraph 1 of this Article.

Any Member entering into negotiations under sub-paragraph (b) of this paragraph shall afford to other interested Members an opportunity for consultation in respect of the proposed arrangement.

3. In any case in which a maximum import duty is not negotiated under paragraph 2 (a) of this Article, the Member maintaining the import monopoly shall make public or notify the Organization of the maximum import duty which it will apply in respect of the product concerned.

4. The price charged by the import monopoly for the imported product in the home market shall not exceed the landed cost plus the maximum import duty negotiated under paragraph 2 of this Article or made public or notified to the Organization under paragraph 3 of this Article, after due allowance for internal taxes, transportation, distribution and other expenses incident to the purchase, sale or further processing, and for a reasonable margin of profit ; *Provided* that regard may be had to average landed costs and selling prices over recent periods ; and *Provided* further that, where the product concerned is a primary product and the subject of a domestic price stabilization arrangement, provision may be made for adjustment to take account of wide fluctuations or variations in world prices subject, where a maximum duty has been negotiated, to agreement between the countries parties to the negotiation.

5. With regard to any product to which the provisions of this Article apply the monopoly shall, wherever this principle can be effectively applied and subject to the other provisions of this Charter, import and

Article 31.

The Preparatory Committee deleted Article 33, as given in the Report of the First Session.

In revising the text of Article 32 (now Article 31), of the New York draft, the Preparatory Committee aimed at producing a text sufficiently flexible to permit any appropriate negotiations with a Member which maintains a complete or substantially complete monopoly of its external trade. However, since no representative of such a country attended the sessions of the Preparatory Committee, the question whether the present Article 31 provides an adequate basis for participation by such a country in the rights and obligations of the Charter remains open for discussion at the World Conference.

Arising out of a proposal by the New Zealand Delegation to make an addition to the previous text of Article 33, the Preparatory Committee considered the special problems that might be created for Members which, as a result of their programmes of full employment, maintenance of high and rising levels of demand and economic development, find themselves faced with a high level of demand for imports, and in consequence maintain quantitative regulation of their foreign trade. In the opinion of the Preparatory Committee the present text of Article 21, together with the provision for export controls in certain parts of the Charter, *e.g.*, in Article 43, fully meet the position of these economies.

The Delegation of New Zealand reserved the position of its Government on this question.

Paragraph 3.

If the maximum import duty is not bound by negotiations according to sub-paragraph 2 (a) the Member is free to change at any time the declared maximum import duty, provided such change is made public or notified to the Organization.

Paragraph 4.

With reference to the second proviso, the method and degree of adjustment to be permitted in the case of a primary product that is the subject of a domestic price stabilization arrangement should normally be a matter for agreement at the time of the negotiations under sub-paragraph (a) of paragraph 2.

offer for sale such quantities of the product as will be sufficient to satisfy the full domestic demand for the imported product, account being taken of any rationing to consumers of the imported and like domestic product which may be in force at that time.

6. In applying the provisions of this Article, due regard shall be had for the fact that some monopolies are established and operated mainly for social, cultural, humanitarian or revenue purposes.

7. This Article shall not limit the use by Members of any form of assistance to domestic producers permitted by other provisions of this Charter.

SECTION E.—GENERAL COMMERCIAL PROVISIONS

Article 32

Freedom of Transit

1. Goods (including baggage), and also vessels and other means of transport, shall be deemed to be in transit across the territory of a Member, when the passage across such territory with or without transshipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of the Member across whose territory the traffic passes. Traffic of this nature is termed in this Article "traffic in transit".

2. There shall be freedom of transit through each Member country via the routes most convenient for international transit for traffic in transit to or from other Member countries. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.

3. Any Member may require that traffic in transit through its territory be entered at the proper customs house, but, except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to other Member countries shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

4. All charges and regulations imposed by Members on traffic in transit to or from other Member countries shall be reasonable, having regard to the conditions of the traffic.

5. With respect to all charges, regulations and formalities in connection with transit, each Member shall accord to traffic in transit, to or from any other Member country treatment no less favourable than the treatment accorded to traffic in transit to or from any third country.

6. Each Member shall accord to products which have been in transit through any other Member country treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through such other Member country. Any Member shall, however, be free to maintain its requirements of direct consignment existing on the day of the signature of this Charter, in respect of any goods in

regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty or has relation to the Member's prescribed method of valuation for duty purposes.

7. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).

Article 33

Anti-dumping and Countervailing Duties

1. No anti-dumping duty shall be levied on any product of any Member country imported into any other Member country in excess of an amount equal to the margin of dumping under which such product is being imported. For the purposes of this Article, the margin of dumping shall be understood to mean the amount by which the price of the product exported from one country to another

- (a) Is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or,
- (b) In the absence of such domestic price, is less than either
 - (i) The highest comparable price for the like product for export to any third country in the ordinary course of trade, or
 - (ii) The cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. No countervailing duty shall be levied on any product of any Member country imported into another Member country in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation, including any special subsidy to the transportation of a particular product. The term "countervailing duty" shall be understood to

Article 32.

The Chilean Delegation maintained, for the time being, the view that Article 32 should be confined to goods only, in which case the words "and also vessels and other means of transport" in paragraph 1 should be deleted, and in consequence reserved its position.

Paragraph 5.

With regard to transport charges, the principle of paragraph 5 refers to like products being transported on the same route under like conditions.

mean a special duty levied for the purpose of offsetting any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or exportation of any merchandise.

3. No product of any Member country imported into any other Member country shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes borne by the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such duties or taxes.

4. No product of any Member country imported into any other Member country shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsidization.

5. No Member shall levy any anti-dumping or countervailing duty on the importation of any product of another Member country unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to prevent or materially retard the establishment of a domestic industry. The Organization may waive the requirements of this paragraph so as to permit a Member to levy an anti-dumping duty or countervailing duty on the importation of any product for the purpose of offsetting dumping or subsidization which causes or threatens material injury to an industry

Article 33.

The Delegations of Cuba and Lebanon would have preferred to introduce the Article by an express statement of condemnation of dumping.

Paragraph 1.

Hidden dumping by associated houses (that is, the sale by the importers at a price below that corresponding to the price invoiced by the exporter with which the importer is associated, and also below the price in the exporting country) constitutes a form of price dumping.

Paragraph 2.

Multiple currency practices may in certain circumstances constitute a subsidy to exports which can be met by countervailing duties under paragraph 2 or may constitute a form of dumping by means of a partial depreciation of a country's currency which can be met by action under paragraph 1 of this Article. By "multiple currency practices" is meant practices by governments or sanctioned by governments.

Paragraph 5.

The Delegations of Belgium-Luxemburg, Czechoslovakia, France and the Netherlands expressed the fear that abuses might be committed under cover of the provisions of paragraph 5 regarding the threat of injury, of which a State might take advantage on the pretext that it intended to establish some new domestic industry in the more or less distant future. It is considered, however, that, if such abuses were committed, the general provisions of the Charter would be adequate to deal with them.

Paragraph 6.

The addition of this paragraph was opposed by the Delegations of China and India.

The obligations set forth in paragraph 6 are, as in the case of all other obligations under Chapter IV, subject to the provisions of Article 40.

in another Member country exporting the product concerned to the importing Member country. It is recognized that the importation of products exported under a stabilization system determined to have conformed to the conditions prescribed in Article 27 would not result in material injury under the terms of the paragraph.

6. No measures other than anti-dumping or countervailing duties shall be applied by any Member in respect of any product of any other Member country for the purpose of offsetting dumping or subsidization.

Article 34

Valuation for Customs Purposes

1. The Members shall work toward the standardization, as far as practicable, of definitions of value and of procedures for determining the value of products subject to customs duties or other charges or restrictions based upon or regulated in any manner by value. With a view of furthering such co-operation, the Organization may study and recommend to Members such bases and methods for determining value for customs purposes as would appear best suited to the needs of commerce and most capable of general adoption.

2. The Members recognize the validity of the general principles of valuation set forth in paragraphs 3, 4 and 5 of this Article, and they undertake to give effect to such principles, in respect of all products subject to duties or other charges or restrictions on importation and exportation based upon or regulated in any manner by value, at the earliest practicable date. Moreover, they shall, upon a request by another Member, review the operation of any of their laws or regulations relating to value for customs purposes in the light of these principles. The Organization may request from Members reports on steps taken by them in pursuance of the provisions of this Article.

3. (a) The value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.

(b) "Actual value" should be the price at which at a time and place determined by the legislation of the country of importation and in the ordinary course of trade, such or like merchandise is sold or offered for sale under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favourable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.

(c) When the actual value is not ascertainable in accordance with sub-paragraph (b) of this paragraph, the value for customs purposes should be based on the nearest ascertainable equivalent of such value.

4. The value for customs purposes of any imported product should not include the amount of any internal tax applicable within the country of origin or export, from which the imported product has been exempted or has been or will be relieved by means of refund.

5. (a) Except as otherwise provided in this paragraph, where it is necessary for the purpose of paragraph 3 for a Member to convert into its own currency a price expressed in the currency of another country, the conversion rate of exchange to be used shall be based on the par values of the currencies involved as established pursuant to the Articles of Agreement of the International Monetary Fund or by special exchange agreements entered into pursuant to Article 24 of this Chapter.

(b) Where no such par value has been established the conversion rate shall reflect effectively the current value of such currency in commercial transactions.

(c) The Organization, in agreement with the International Monetary Fund, shall formulate rules governing the conversion by Members of any foreign currency in respect of which multiple rates of exchange are maintained consistently with the Articles of Agreement of the International Monetary Fund. Any Member may apply such rules in respect of such foreign currencies for the purposes of paragraph 3 of this Article as an alternative to the use of par values. Until such rules are adopted by the Organization, any Member may employ in respect of any such foreign currency rules of conversion for the purposes of

Article 34.

Paragraph 2.

The Preparatory Committee considered the desirability of replacing the words "at the earliest practicable date" by a definite date or, alternatively, by a provision for a specified limited period to be fixed later. The Committee appreciated that it would not be possible for all Members to give effect to these principles by a fixed time, but it was nevertheless understood that a majority of the Members would give effect to them at the time the Charter enters into force.

Paragraph 3.

It would be in conformity with Article 34 to presume that "actual value" may be represented by the invoice price, plus any non-included charges for legitimate costs which are proper elements of "actual value" and plus any abnormal discount or other reduction from the ordinary competitive price.

It would be in conformity with Article 34, 3 (b), for a Member to construe the phrase "in the ordinary course of trade", read in conjunction with "under fully competitive conditions", as excluding any transaction wherein the buyer and seller are not independent of each other and price is not the sole consideration.

The prescribed standard of "fully competitive conditions" permits Member to exclude from consideration distributors' prices which involve special discounts limited to exclusive agents.

The wording of (a) and (b) permits a Member to assess duty uniformly either (1) on the basis of a particular exporter's prices of the imported merchandise, or (2) on the basis of the general price level of like merchandise.

The Delegation of Chile reserved its position for the time being.

paragraph 3 of this Article which are designed to reflect effectively the value of such foreign currency in commercial transactions.

(d) Nothing in this paragraph shall be construed to require any Member to alter the method of converting currencies for customs purposes, which is applicable in its territory on the day of the signature of this Charter, if such alteration would have the effect of increasing generally the amounts of duty payable.

6. The bases and methods for determining the value of products subject to duties or other charges or restrictions based upon or regulated in any manner by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the value for customs purposes.

Article 35

Formalities connected with Importation and Exportation

1. The Members recognize that fees and charges, other than duties, imposed by governmental authorities on or in connection with importation or exportation should be limited in amount to the approximate cost of services rendered and should not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes. The Members also recognize the need for reducing the number and diversity of such fees and charges, for minimizing the incidence and complexity of import and export formalities, and for decreasing and simplifying import and export documentation requirements.

2. The Members shall take action in accordance with the principles and objectives of paragraph 1 of this Article at the earliest practicable date. Moreover, they shall, upon request by another Member, review the operation of any of their laws and regulations in the light of these principles. The Organization may request from Members reports on steps taken by them in pursuance of the provisions of this paragraph.

3. The Organization may study and recommend to Members specific measures for the simplification and standardization of customs formalities and techniques and for the elimination of unnecessary customs requirements.

4. No Member shall impose substantial penalties for minor breaches of customs regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in customs documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.

5. The provisions of this Article shall extend to fees, charges, formalities and requirements imposed by governmental authorities in connection with importation and exportation, including those relating to :

- (a) Consular transactions, such as consular invoices and certificates ;
- (b) Quantitative restrictions ;
- (c) Licensing ;
- (d) Exchange control ;
- (e) Statistical services ;
- (f) Documents, documentation and certification ;
- (g) Analysis and inspection ; and
- (h) Quarantine, sanitation and fumigation.

Article 36

Marks of Origin

1. The Members recognize that in adopting and implementing laws and regulations relating to marks of origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum.

2. Each Member shall accord to the products of each other Member country treatment with regard to marking requirements no less favourable than the treatment accorded to like products of any third country.

3. Whenever administratively practicable, Members should permit required marks of origin to be affixed at the time of importation.

4. The laws and regulations of Members relating to the marking of imported products shall be such as to permit compliance without seriously damaging the products, or materially reducing their value, or unreasonably increasing their cost.

5. The Members agree to work in co-operation through the Organization towards the early elimination of unnecessary marking requirements. The Organization may study and recommend to Members measures directed to this end, including the adoption of schedules of general categories of products, in respect of which marking requirements operate to restrict trade to an extent disproportionate to any proper purpose to be served, and which shall not in any case be required to be marked to indicate their origin.

Article 35.

Paragraph 5.

While Article 35 does not cover the use of multiple rates of exchange as such, paragraphs 1 and 5 condemn the use of exchange taxes or fees as a device for implementing multiple currency practices ; if, however, a Member is using multiple currency exchange fees for balance of payments reasons with the approval of the International Monetary Fund, the provisions of paragraph 2 fully safeguard its position since that paragraph merely requires that the fees be eliminated at the earliest practicable date.

6. As a general rule no special duty or penalty should be imposed by any Member for failure to comply with marking requirements prior to importation unless corrective marking is unreasonably delayed or deceptive marks have been affixed or the required marking has been intentionally omitted.

7. The Members shall co-operate with each other and through the Organization with a view to preventing the use of trade names in such manner as to misrepresent the true origin of a product, to the detriment of the distinctive regional or geographical names of products of a Member country which are protected by the legislation of such country. Each Member shall accord full and sympathetic consideration to such requests or representations as may be made by any other Member regarding the application of the undertaking set forth in the preceding sentence to names of products which have been communicated to it by the other Member. The Organization may recommend a conference of interested Members on this subject.

Article 37

Publication and Administration of Trade Regulations

1. Laws, regulations, judicial decisions and administrative rulings of general application made effective by any Member, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them. Agreements in force between the government or a governmental agency of any Member country and the government or governmental agency of any other country affecting international trade policy shall also be published. Copies of such laws, regulations, decisions, rulings and agreements shall be communicated promptly to the Organization. This paragraph shall not require any Member to disclose confidential information which would impede law enforcement, or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

2. No measure of general application taken by any Member effecting an advance in a rate of duty or other charge on imports under an established and uniform practice or imposing a new or more burdensome

Article 36.

Paragraph 7.

The Delegation of Chile reserved its position.

requirement, restriction or prohibition on imports, or on the transfer of payments therefor, shall be enforced before such measure has been officially published.

3. (a) Each Member shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article.

(b) Each Member shall maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose, *inter alia*, of the prompt review and correction of administrative action relating to customs matters. Such tribunals or procedures shall be independent of the agencies entrusted with administrative enforcement and their decisions shall be implemented by and shall govern the practice of such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed for appeals to be lodged by importers; *Provided* that the central administration of such agency may take steps to obtain a review of the matter in another proceeding if there is good cause to believe that the decision is inconsistent with established principles of law or the actual facts.

(c) The provisions of sub-paragraph (b) of this paragraph shall not require the elimination or substitution of procedures in force in a Member country on the day of the signature of this Charter which in fact provide for an objective impartial review of administrative action even though such procedures are not fully or formally independent of the agencies entrusted with administrative enforcement. Any Member employing such procedures shall, upon request, furnish the Organization with full information thereon in order that the Organization may determine whether such procedures conform to the requirements of this sub-paragraph and those of sub-paragraph (b).

Article 38

Information, Statistics and Trade Terminology

1. The Member shall communicate to the Organization, or to such agency as may be designated for the purpose by the Organization, as promptly and in as much detail as is reasonably practicable:

- (a) Statistics of their external trade in goods (imports, exports and, where applicable, re-exports, transit, and trans-shipment and goods in warehouse or in bond);
- (b) Statistics of governmental revenue from import and export duties and other taxes on goods moving in international trade and, in so far as readily ascertainable, of subsidy payments affecting such trade.

2. So far as possible, the statistics referred to in paragraph 1 of this Article shall be related to tariff classifications and shall be in such form as to reveal the operation of any restrictions on importation or exportation which are based on or regulated in any manner by quantity or value or amounts of exchange made available.

3. The Members shall publish regularly and as promptly as possible the statistics referred to in paragraph 1 of this Article.

4. The Members shall give careful consideration to any recommendations which the Organization may make to them with a view to improving the statistical information furnished under paragraph 1 of this Article.

5. The Members shall make available to the Organization, at its request and in so far as is reasonably practicable, such other statistical information as the Organization may deem necessary to enable it to fulfil its functions, provided that such information is not being furnished to other inter-governmental organizations from which the Organization can obtain the required information.

6. The Organization shall act as a centre for the collection, exchange and publication of statistical information of the kind referred to in paragraph 1 of this Article. The Organization, in collaboration with the Economic and Social Council of the United Nations, and with any other organization deemed appropriate, may engage in studies with a view to improving the methods of collecting, analysing and publishing economic statistics and may promote the international comparability of such statistics, including the possible international adoption of standard tariff and commodity classifications.

7. The Organization, in co-operation with the other organizations referred to in paragraph 6 of this Article, may also study the question of adopting standards, nomenclatures, terms and forms to be used in international trade and in the official documents and statistics of Members relating thereto, and may recommend the general acceptance by Members of such standards, nomenclatures, terms and forms.

Article 39

Boycotts

No Member shall encourage, support or participate in boycotts or other campaigns which are designed to discourage, directly or indirectly, the consumption within its territory of products of any specific Member country or countries on grounds of origin, or the sale of products for consumption within other Member countries on grounds of destination.

Article 39.

The Delegation of Lebanon reserved its position.

SECTION F.—SPECIAL PROVISIONS

Article 40

Emergency Action on Imports of Particular Products

1. (a) If, as a result of unforeseen developments and of the effect of the obligations incurred by a Member under or pursuant to this Chapter, including tariff concessions, any product is being imported into the territory of that Member in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the Member shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession.

(b) If any product, which is the subject of a concession with respect to a preference, is being imported into the territory of a Member in the circumstances set forth in sub-paragraph (a) of this paragraph, so as to cause or threaten serious injury to domestic producers of like or directly competitive products in the territory of a Member which receives or received such preference, the importing Member shall be free, if that other Member so requests, to suspend the relevant obligation in whole or in part or to withdraw or modify the concession in respect of the product, to the extent and for such time as may be necessary to prevent or remedy such injury.

2. Before any Member shall take action pursuant to the provisions of paragraph 1 of this Article, it shall give notice in writing to the Organization as far in advance as may be practicable and shall afford the Organization and those Members having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action. When such notice is given in relation to a concession with respect to a preference, the notice shall name the Member which has requested the action. In critical circumstances, where delay would cause damage which it would be difficult to repair, such action may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

3. (a) If agreement among the interested Members with respect to the action is not reached, the Member which proposes to take or continue the action shall, nevertheless, be free to do so, and if such action is taken or continued, the affected Members shall then be free, not later than ninety days after such action is taken, to suspend, upon the expiration of thirty days from the day on which written notice of such suspension is received by the Organization, the application to the trade

of the Member taking such action, or, in the case envisaged in paragraph 1 (b) of this Article to the trade of the Member requesting such action, of such substantially equivalent obligations or concessions under this Chapter the suspension of which the Organization does not disapprove.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, where action is taken under paragraph 2 of this Article without prior consultation and causes or threatens serious injury in the territory of a Member to the domestic producers of products affected by the action, that Member shall, where delay would cause damage difficult to repair, be free to suspend, upon the taking of the action and throughout the period of consultation, such obligations or concessions as may be necessary to prevent or remedy the injury.

4. Nothing in this Article shall be construed (a) to require any Member in connection with the withdrawal or modification by such Member of any concession negotiated under Article 17, to consult with or obtain the agreement of Members other than those Members which are parties to the General Agreement on Tariffs and Trade, or (b) to authorize any such other Members, not parties to that Agreement, to withdraw from or suspend obligations under this Charter by reason of the withdrawal or modification of such concession.

Article 41

Consultation

Each Member shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as may be made by any other Member with respect to the operation of customs regulations and formalities, anti-dumping and countervailing duties, quantitative and exchange regulations, subsidies, state-trading operations, sanitary laws and regulations for the protection of human, animal or plant life or health, and generally all matters affecting the operation of this Chapter.

Article 42

Territorial Application of Chapter IV—Frontier Traffic—Customs Unions

1. The rights and obligations arising under this Chapter shall be deemed to be in force between each and every territory which is a separate customs territory and in respect of which this Charter has been accepted by a Member in accordance with Article 99.

2 The provisions of this Chapter shall not be construed to prevent :

(a) Advantages accorded by any member to adjacent countries in order to facilitate frontier traffic ; or

(b) The formation of a customs union or the adoption of an interim agreement necessary for the attainment of a customs union; *Provided* that the duties and other regulations of commerce imposed by, or any margins of preference maintained by, any such union or agreement in respect of trade with Members of the Organization shall not on the whole be higher or more stringent than the average level of the duties and regulations of commerce or margins of preference applicable in the constituent territories prior to the formation of such union or the adoption of such agreement, and *Provided* further that any such interim agreement shall include a definite plan and schedule for the attainment of such a customs union within a reasonable length of time.

3. (a) Any Member proposing to enter into a customs union shall consult with the Organization and shall make available to it such information regarding the proposed union as will enable the Organization to make such reports and recommendations to Members as it may deem appropriate.

(b) No Member shall institute or maintain any interim agreement under the provisions of paragraph 2 (b) of this Article if, after a study of the plan and schedule proposed in such agreement, the Organization finds that such agreement is not likely to result in such a customs union within a reasonable length of time.

(c) The plan or schedule shall not be substantially altered without consultation with the Organization.

4. For the purpose of this Article a customs territory shall be understood to mean any territory with respect to which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories. A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that all tariffs and other restrictive regulations of commerce as between the territories of members of the union are substantially eliminated and substantially the same tariffs and other regulations of commerce are applied to each of the members of the union to the trade of territories not included in the union.

Article 43

General Exceptions to Chapter IV

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable

Article 42.

Paragraph 4 of the text of the former Article 38 proposed by the New York Drafting Committee has been deleted since the subject dealt with therein is covered by the new Article 15 and by Article 74. The Delegation of Chile favoured its retention pending the World Conference.

discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent the adoption or enforcement by any Member of measures :

- I. (a) Necessary to protect public morals ;
 - (b) Necessary to protect human, animal or plant life or health ;
 - (c) Relating to the importation or exportation of gold or silver ;
 - (d) Necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter, including those relating to customs enforcement, the enforcement of monopolies operated under Section D of this Chapter, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices ;
 - (e) Relating to the products of prison labour ;
 - (f) Imposed for the protection of national treasures of artistic, historic or archæological value ;
 - (g) Relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption ;
 - (h) Undertaken in pursuance of obligations under inter-governmental commodity agreements concluded in accordance with the provisions of Chapter VI ; or
 - (i) Involving restrictions on exports of domestic materials necessary to assure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan ; *Provided* that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Chapter relating to non-discrimination.
- II. (a) Essential to the acquisition or distribution of products in general or local short supply : *Provided* that any such measures shall be consistent with any multilateral arrangements directed to an equitable international distribution of such products or, in the absence of such arrangements, with the principle that all Members are entitled to an equitable share of the international supply of such products ;
 - (b) Essential to the control of prices by a Member country undergoing shortages subsequent to the war ; or

- (c) Essential to the orderly liquidation of temporary surpluses of stocks owned or controlled by the government of any Member, or of industries developed in any Member country owing to the exigencies of the war which it would be uneconomic to maintain in normal conditions; *Provided* that such measures shall not be instituted by any Member, except after consultation with other interested Members with a view to appropriate international action.

Measures instituted or maintained under paragraph II of this Article which are inconsistent with the other provisions of this Chapter shall be removed as soon as the conditions giving rise to them have ceased, and in any event not later than 1 January 1951; *Provided* that this period may, with the concurrence of the Organization, be extended in respect of the application of any particular measure to any particular product by any particular Member for such further periods as the Organization may specify.

Article 43.

The Delegation of India maintained its suggestion that a Member should be allowed temporarily to discriminate against the trade of another Member when this is the only effective measure open to it to retaliate against discrimination practised by that Member in matters outside the purview of the Organization, pending a settlement of the issue through the United Nations.

Paragraph I.

The Delegation of Norway re-stated its view that the taxation and the price policy of Norway's State liquor and wine monopoly was covered by sub-paragraphs(a) and (b).

Sub-paragraph I (g).

The Australian Delegation reserved its position.

Paragraph II.

The Norwegian Delegation, referring to sub-paragraph (b), stated that provisions relating to permanent price regulation ought to be included in the Charter.

CHAPTER V.—RESTRICTIVE BUSINESS PRACTICES

Article 44

General Policy towards Restrictive Business Practices

1. Each Member shall take appropriate measures, individually or through the Organization or in both ways, to prevent business practices affecting international trade (whether engaged in by private or public commercial enterprises) which restrain competition, limit access to markets, or foster monopolistic control, whenever such practices have harmful effects on the expansion of production or trade and interfere with the achievement of any of the other objectives set forth in Article 1.

2. Without limiting the generality of paragraph 1 of this Article, and in order that the Organization may decide in a particular instance whether certain practices have or are about to have any of the effects described in paragraph 1 of this Article, the Members agree that complaints regarding any of the practices listed in paragraph 3 of this Article shall be subject to investigation in accordance with the procedure regarding complaints provided in Articles 45 and 47, whenever

- (a) Such a complaint is presented to the Organization ; and
- (b) The practices are engaged in or are made effective by one or more private or public commercial enterprises or by a combination, agreement or other arrangement between commercial enterprises, whether between private commercial enterprises, between public commercial enterprises, or between private and public commercial enterprises ; and
- (c) Such commercial enterprises, individually or collectively, possess effective control of trade between two or more countries in one or more products.

3. The practices referred to in paragraph 2 of this Article are the following :

- (a) Fixing prices or terms, or conditions to be observed in dealing with third parties, in the purchase, sale or lease of any product ;
- (b) Excluding enterprises from any territorial market or field of business activity, allocating or dividing any territorial market or field of business activity, allocating customers, or fixing sales quotas or purchase quotas ;
- (c) Discriminating against particular enterprises ;
- (d) Limiting production or fixing production quotas ;
- (e) Preventing by agreement the development or application of technology or invention whether patented or unpatented ;

(f) Extending the use of rights under patents, trade marks or copyrights granted by any Member, to matters which are determined by its system of law not to be within the scope of such grants, or to products or conditions of production, use or sale which are similarly determined not to be the subjects of such grants ;

(g) Any similar practices which the Organization may from time to time decide are restrictive business practices.

4. In this Chapter the term " public commercial enterprises " means

(a) Trading agencies of governments, and

(b) Enterprises mainly or wholly owned by public authority and over which there is effective control by public authority, including control of engagement in a practice listed in paragraph 3 of this Article.

The term " private commercial enterprises " means all other commercial enterprises.

Article 45

Procedure with respect to Investigations and Consultations

1. The Organization shall arrange, if it considers such action to be justified on the basis of information submitted by the Members concerned, for particular Members to take part in a consultation requested by any affected Member which considers that in any particular instance a practice exists (whether engaged in by private or public commercial enterprises) which has or is about to have the effect described in paragraph 1 of Article 44.

2. A complaint may be presented in writing to the Organization by any affected Member on its own behalf or by any Member on behalf of any affected person, enterprise or organization within that Member's jurisdiction ; *Provided* that in the case of a complaint against a single public commercial enterprise acting independently, such complaint may be presented only by a Member on its own behalf and only after the Member has resorted to the procedure under paragraph 1 of this Article.

3. The Organization shall prescribe the minimum information to be included in complaints that particular practices exist which have or are about to have the effect described in paragraph 1 of Article 44. The information shall give substantial indication of the nature and harmful effects of the practices.

4. The Organization shall consider each complaint presented in accordance with paragraph 2 of this Article. If the Organization deems it

Article 44.

The Norwegian Delegation reserved its final position.

appropriate it shall request Members concerned to furnish supplementary information, for example, information from commercial enterprises within their jurisdiction. After reviewing the relevant information the Organization shall decide whether an investigation is justified.

5. If the Organization decides that an investigation is justified, it shall notify all Members of the complaint, request any Member to furnish such additional information relevant to the complaint as the Organization may deem necessary, and shall conduct or arrange for hearings on the complaint. Any Member, and any person, enterprise or organization on whose behalf the complaint has been made, as well as the commercial enterprises alleged to have engaged in the practice complained of, shall be afforded reasonable opportunity to be heard.

6. The Organization shall review all information available and decide whether the practices in question have had, have or are about to have the effect described in paragraph 1 of Article 44.

7. The Organization shall notify all Members of its decision and the reasons therefor.

8. If the Organization decides that in any particular case the practices complained of have had, have or are about to have the effect described in paragraph 1 of Article 44, it shall request each Member concerned to take every possible remedial action, and may also recommend to the Members concerned remedial measures to be carried out in accordance with their respective laws and procedures.

9. The Organization may request any Member concerned to report fully on the remedial action it has taken in any particular case.

10. As soon as possible after its proceedings in respect of any complaint under this Article have been provisionally or finally closed, the Organization shall prepare and publish a report showing fully the decisions reached, the reasons therefor and any measures recommended to the Members concerned. The Organization shall not, if a Member so requests, disclose confidential information furnished by that Member which if disclosed would substantially damage the legitimate business interests of a commercial enterprise.

11. The Organization shall report to all Members and make public the remedial action which has been taken by the Members concerned in any particular case.

Article 46

Studies relating to Restrictive Business Practices

1. The Organization is authorized

(a) To conduct studies, either on its own initiative or at the request of any Member or of any organ of the United Nations or of any other inter-governmental organization relating to

(i) General aspects of restrictive business practices affecting international trade ; and

(ii) Conventions, laws and procedures concerning, for example, incorporation, company registration, investments, securities, prices, markets, fair trade practices, trade marks, copyrights, patents and the exchange and development of technology, insofar as they are relevant to restrictive business practices affecting international trade ; and

(iii) The registration of restrictive business agreements and other arrangements affecting international trade ; and

(b) To request information from Members in connection with such studies.

2. The Organization is authorized

(a) To make recommendations to Members concerning such conventions, laws and procedures as are relevant to their obligations under this Chapter ; and

(b) To arrange for conferences of Members to discuss any matters relating to restrictive business practices affecting international trade.

Article 47

Obligations of Members

1. Each Member shall take all possible measures by legislation or otherwise to ensure, within its jurisdiction, that private and public commercial enterprises do not engage in practices which have the effect described in paragraph 1 of Article 44, and in addition it shall assist the Organization in preventing these practices, such assistance to be given in accordance with the Member's system of law and economic organization.

2. Each Member shall make adequate arrangements for presenting complaints, conducting investigations, and preparing information and reports requested by the Organization.

3. Each Member shall furnish to the Organization, as promptly and as fully as possible, such information as is requested by the Organization for its consideration and investigation of complaints and for its conduct of studies under this Chapter ; *Provided* that any Member on notification to the Organization, may withhold information which the Member considers is not essential to the Organization in conducting an adequate investigation and which, if disclosed, would substantially damage the legitimate business interests of a commercial enterprise. In notifying the Organization that it is withholding information pursuant to this clause, the Member shall indicate the general character of the information withheld, and the reasons why he considers it not essential.

4. Each Member shall take full account of each request, decision and recommendation of the Organization under Article 45 and, in

accordance with its system of law and economic organization, take in the particular case the action it considers appropriate having regard to its obligations under this Chapter.

5. Each Member shall report fully any action taken, independently or in concert with other Members, to comply with requests and carry out recommendations of the Organization, and, when no action has been taken, inform the Organization of the reasons therefor and discuss the matter further with the Organization if requested to do so.

6. Each Member shall, at the request of the Organization, take part in consultations and conferences provided for in this Chapter with a view to reaching mutually satisfactory conclusions.

Article 48

Supplementary Enforcement Arrangements

1. Members may co-operate with each other in prohibitive, preventive, or other measures for the purpose of making more effective any remedial order issued by a duly authorized agency of any Member in furtherance of the objectives of this Chapter.

2. Members participating in or intending to participate in such co-operative action shall notify the Organization.

Article 49

Domestic Measures against Restrictive Business Practices

No act or omission to act on the part of the Organization shall preclude any Member from enforcing any national statute or decree directed towards preventing monopoly or restraint of trade.

Article 50

Procedure with respect to Services

1. The Members recognize that certain services, such as transportation, telecommunications, insurance and banking, are substantial elements of international trade, and that any restrictive business practices in relation to them may have harmful effects similar to those described in paragraph 1 of Article 44. Such practices shall be dealt with in accordance with the following paragraphs of this Article.

Article 50.

The Norwegian Delegation reserved its final position, in view of the fact that the Inter-governmental Maritime Consultative Commission would have a meeting in November 1947, and only after the results of that meeting were known would it be possible for the Norwegian Government to define its final attitude to this Article. The French Delegation adhered to the reservation of the Norwegian Delegation.

2. If any Member considers that there exist restrictive business practices in relation to a service referred to in paragraph 1 of this Article which have or are about to have such harmful effects, and that its interests are thereby seriously prejudiced, the Member may submit a written statement explaining the situation to the Member or Members the private or public enterprises of which are engaged in the services in question. The Member or Members concerned shall give sympathetic consideration to the statement and to such proposals as may be made with a view to affording adequate opportunities for consultation, with a view to effecting a satisfactory adjustment.

3. If no adjustment can be effected in accordance with the provisions of paragraph 2 of this Article, and if the matter is referred to the Organization, it shall be transferred to the appropriate inter-governmental organization if one exists, with such observations as the Organization may wish to make. If no such inter-governmental organization exists, Members may ask the Organization, under Article 69 (c), to make recommendations for, and promote international agreement on, measures designed to remedy the particular situation so far as it comes within the scope of this Charter.

4. The Organization shall, in accordance with paragraph 2 of Article 84, co-operate with inter-governmental organizations in connection with restrictive business practices affecting any field coming within the scope of this Charter and those organizations shall be entitled to consult the Organization, to seek advice, and to ask that a study of a particular problem be made.

Article 51

Exceptions to the Provisions of this Chapter

1. The obligations in this Chapter shall not apply to :

(a) Inter-governmental commodity agreements meeting the requirements of Chapter VI ; and

(b) Any bilateral inter-governmental agreement relating to the purchase or sale of a commodity falling under Section D of Chapter IV.

2. Notwithstanding paragraph 1 of this Article, the Organization may make recommendations to Members and to appropriate inter-governmental organizations concerning any features of the agreements referred to in paragraph 1 (b) of this Article which may have the effect described in paragraph 1 of Article 44.

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

Article 52.

Reference to the need to adopt “ special treatment of the international trade in such commodities ” merely means that international trade is the aspect of a particular commodity problem directly appropriate for international treatment. Agreement regarding the treatment of the international trade in a commodity might, of course, involve agreement regarding production or consumption of the commodity.

Article 54

Objectives of Inter-governmental Commodity Agreements

The Members recognize 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.

Article 54.

Inter-governmental commodity agreements approved by the Food and Agriculture Organization for the distribution of basic foods at special prices are permitted under this draft Charter and are considered to be covered by paragraph (e).

SECTION B.—INTER-GOVERNMENTAL COMMODITY
AGREEMENTS IN GENERAL

Article 55

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 Organization 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 Organization 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 Organization shall promptly transmit to the Members these findings and recommendations.

Article 56

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 Organization shall promptly convene an inter-governmental conference to discuss measures designed to meet the special difficulties which exist or are expected to arise. The Organization 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 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 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 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. The Organization 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 56. 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 59

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 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.

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

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 reasonable prices, 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 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).

Article 60.

The term "reasonable" as applying to prices in sub-paragraph (a) is to be interpreted as in Article 54 (c).

Under sub-paragraph (b) :

- (i) there shall be no more than two groups of countries within an agreement, and the principle of "equal voice" in substantive matters shall apply as between them ;
- (ii) 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 63 for the settlement of differences concerning commodity control agreements.

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 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 decided 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 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. 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 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 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.

2. 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. 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.

CHAPTER VII.—THE INTERNATIONAL TRADE ORGANIZATION

SECTION A.—STRUCTURE AND FUNCTIONS

Article 68

Membership

1. The original Members of the Organization shall be those States invited to the United Nations Conference on Trade and Employment whose Governments accept this Charter by 194.. in accordance with paragraph 1 of Article 98, or, if this Charter shall not have entered into force by 194.., those States whose Governments agree to bring this Charter into force in accordance with the proviso in paragraph 2 of Article 98.

2. Any other State whose membership has been approved by the Conference shall become a Member of the Organization upon its acceptance in accordance with paragraph 1 of Article 98 of this Charter, as amended up to the date of such acceptance.

3. The following separate customs territories, though not responsible for the formal conduct of their diplomatic relations, shall be admitted to the Organization on such terms as may be determined :

- (i) Any separate customs territory invited to the United Nations Conference on Trade and Employment upon acceptance of the Charter on its behalf by the competent Member in accordance with paragraph 2 of Article 99 :
- (ii) Any separate customs territory not invited to the United Nations Conference on Trade and Employment, proposed by the competent Member having responsibility for the formal conduct of its diplomatic relations and which is autonomous in the conduct

Article 68.

The Preparatory Committee considered a suggestion to add to Article 68 provisions regarding the effect of suspension of, or expulsion from, membership in the United Nations upon membership in the Organization. It was agreed that, in view of the complexity of the issues involved and the late stage at which the suggestion was made, this question should be deferred until the World Trade Conference by which time governments would have been able to study it fully.

Paragraph 3.

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

Obviously the rights and obligations of any separate customs territory of the type referred to in paragraph 3 which did not become a full Member as a result of decisions taken at the World Trade Conference and which applies under paragraph 3 of this Article for admission to the Organization, will have to be determined by the Conference of the Organization when the application is made, and the final draft of the Charter must so provide.

Paragraph 4.

See second footnote to paragraph 3 of Article 68.

of its external commercial relations and of the other matters provided for by this Charter and whose admission is approved by the Conference, upon acceptance of the Charter on its behalf by the competent Member in accordance with paragraph 2 of Article 99, or, in the case of a territory in respect of which the Charter has been accepted under paragraph 1 of Article 99, upon its becoming thus autonomous.

4. Any separate customs territory admitted to the Organization under paragraph 3 of this Article which is accorded full voting rights shall thereupon be a Member of the Organization.

5. The Conference shall determine the conditions upon which membership rights and obligations shall be extended to Trust Territories administered by the United Nations and to the Free Territory of Trieste.

Article 69

Functions

The Organization shall perform the functions provided for elsewhere in this Charter. In addition the Organization shall have the following functions :

- (a) To collect, analyse and publish information relating to international trade, including information relating to commercial policy, business practices, commodity problems and industrial and general economic development :
- (b) To encourage and facilitate consultation among Members on all questions relating to the provisions of this Charter ;
- (c) To undertake studies on, make recommendations for, and promote international agreement on, measures designed
 - (i) To assure just and equitable treatment for foreign nationals and enterprises ;
 - (ii) To expand the volume and to improve the bases of international trade, including measures designed to facilitate commercial arbitration and avoidance of double taxation ; and
 - (iii) Generally to achieve any of the objectives set forth in Article 1 ;

Article 69.

Paragraph (c) (i).

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

- (d) Generally to consult with and make recommendations and, as necessary, furnish advice and assistance to Members regarding any matter relating to the operation of this Charter, and to take any other action necessary and proper to carry out the provisions of this Charter ;
- (e) To co-operate with the United Nations and inter-governmental organizations in furthering the achievement of the economic and social objectives of the United Nations and the restoration and maintenance of international peace and security.

Article 70

Structure

The Organization shall have a Conference, and Executive Board, a Tariff Committee, Commissions as established under Article 79, and such other organs as may be required. There shall also be a Director-General and Staff.

SECTION B.—THE CONFERENCE

Article 71

Composition

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

Article 72

Voting

Alternative A.

1. Each Member shall have one vote in the Conference.
2. Except as otherwise provided in this Charter, decisions of the Conference shall be taken by a majority of the Members present and voting.

Alternative B.

1. Each Member shall have in the Conference the number of votes allocated to it in pursuance of the provisions of Annex . . .¹ to this Charter.
2. Except as otherwise provided in this Charter, decisions of the Conference shall be taken by a simple majority of the votes cast.

Alternative C.

1. Each Member shall have one vote in the Conference.
2. Except as otherwise provided in this Charter, decisions of the Conference shall be taken by a majority of the Members present and voting; *Provided* that, at the instance of any Member, any decision reached by the Organization on the matters provided for in Articles . . .² shall require corroboration by a second vote taken by a simple majority of the votes cast in accordance with the plan of weighted voting set out in Annex . . .¹ to this Charter.

Article 72.

¹ See the proposals for weighted voting given in the Appendix.

² The Articles to be mentioned would be determined by the World Conference.

Article 73

Sessions, Procedure and Officers

1. The Conference shall meet in regular annual sessions and in such special sessions as may be convoked by the Director-General at the request of the Executive Board, or of a majority of the Members.

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

Article 74

Powers and Duties

1. The powers and duties attributed to the Organization by this Charter and the final authority to determine the policies of the Organization shall, subject to the provisions of Article 81, be vested in the Conference.

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

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

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

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

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

Article 74.

Paragraph 3.

The Delegation of Chile reserved its position regarding the first sentence insofar as it relates to Article 15.

Paragraph 6.

The Delegation of Canada reserved its position on the proviso.

5. The Conference may make recommendations to Members and to inter-governmental organizations regarding any matter pertaining to the purpose and objectives set forth in Article 1.

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

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

SECTION C.—THE EXECUTIVE BOARD

Article 75

Composition of the Executive Board

Alternative A.

1. The Executive Board shall, subject to the provisions of the other paragraphs of this Article, consist of Members of the Organization as follows :

- (a) Canada, China, France, India, Union of Soviet Socialist Republics, United Kingdom, United States of America and either Belgium and the Netherlands alternating every three years or the Customs Union of Belgium, Luxemburg, and the Netherlands should these States desire to be represented as a unit ;
- (b) Three Members elected by the American Republics not entitled to a seat in the Board under sub-paragraph (a) ;
- (c) One Member to be elected by each of the following groups of States if their members desire to be represented as a group :
 - (i) Egypt, Iraq, Lebanon, Saudi Arabia, Syria, Transjordan and the Yemen ;
 - (ii) Denmark, Finland, Iceland, Norway and Sweden ;
- (d) Five Members elected by the remaining Members ; *Provided* that groups of not less than four States, having common interests, and representing a certain proportion of world trade may be formed with the approval of the Conference and any such group shall be entitled to elect one or more Members to the Board according to the number of States which comprise it and the proportion of world trade they together represent.

2. The Conference shall make regulations relating to paragraphs 1 (b), (c) and (d) of this Article which shall provide for the mode of election, the conditions under which groups under paragraph 1 (d) of this Article may be formed, the method of reallocating seats where necessary, and other related matters.

3. The Members elected to the Executive Board shall normally be elected for terms of three years. The Conference shall establish rules

Article 75.

Paragraph 1 (a).

If the Customs Union of Belgium, Luxemburg and the Netherlands as such should not desire to appoint a representative on the Board, Luxemburg would fall under paragraph 1 (d) of this Article.

The Preparatory Committee was not able to examine fully the conception of giving membership in the Board to customs unions. This matter should be considered more thoroughly by the World Conference.

with regard to these terms designed to ensure a reasonable measure of continuity in representation on the Board.

4. During the time that any State mentioned in paragraph 1 (a) of this Article is not a Member of the Organization, the size of the Executive Board shall be reduced accordingly.

5. If at any time the number of States referred to in paragraph 1 (b) of this Article be seven or less, those States shall be entitled to elect only one Member to the Executive Board. Should at any time this number be more than seven but less than fifteen, they shall be entitled to elect two Members to the Board.

6. Should at any time the number of States referred to in paragraph 1 (d) of this Article be

- (a) Four or more but less than seven,
- (b) Seven or more but less than fifteen,
- (c) Fifteen or more but less than twenty-one,
- (d) Twenty-one or more but less than twenty-eight,

those States shall be entitled to elect one, two, three or four Members to the Board respectively.

7. The number of Members on the Executive Board may, upon a recommendation of the Board, be increased by the Conference by a two-thirds majority of the votes cast.

8. Notwithstanding the provisions of Article 95, any amendment of this Article relating to paragraph 1 (a) or to the election of Members to the Board under paragraph 1 (b), (c) and (d) or involving the rearrangement of groups established under paragraph 1 (c) or formed under paragraph 1 (d), shall become effective upon its approval by the Conference by a majority of the votes cast.

9. The provisions of this Article shall be subject to review by the Conference every three years.

Alternative B.

1. The Executive Board shall consist of the representatives of not more than fifteen of the Members of the Organization, elected by the Conference by the affirmative vote of two-thirds of those present and voting. Seven of the Members may be immediately re-elected on the expiration of the term for which they have been elected.

2. The number of Members on the Executive Board may, upon a recommendation of the Board, be increased by the Conference by a two-thirds majority of the Members present and voting.

3. The Members elected to the Executive Board shall normally be elected for terms of three years. The Conference shall establish rules with regard to these terms designed to ensure a reasonable measure of continuity in representation on the Board.

Alternative C.

1. Subject to the provisions of paragraph 6 of this Article, the Executive Board shall consist of seventeen Members of the Organization.

2. The eight States of chief economic importance, as determined by the Conference at intervals of three years by a two-thirds majority of Members present and voting, shall be entitled to membership of the Board.

3. The other Members shall be elected to the Board by a two-thirds vote of the Conference.

4. Subject to paragraph 5 one-third of the Members referred to in paragraph 3 shall be elected each year for a term of three years. A retiring Member shall be eligible for immediate re-election.

5. At the first election :

(a) Canada, China, France, India, United Kingdom, United States, Union of Soviet Socialist Republics and the Customs Union of Belgium, Luxemburg and the Netherlands, should the States members of that Customs Union desire to be represented as a unit, shall be appointed under paragraph 2 ;

(b) Nine other Members shall be elected, of which the terms of office of three shall expire at the end of one year and of three other Members at the end of two years.

6. (a) During the time that any State mentioned in paragraph 2 of this Article is not a Member of the Organization the size of the Board shall be reduced accordingly.

(b) During any time that the number of Members of the Organization is less than twenty-eight the numbers six, two and two shall be substituted for the number nine, three and three respectively in paragraph 5 (b) of this Article.

7. The Conference shall make regulations which shall apply the provisions of paragraph 5 (b) at any time when the number of Members on the Board is varied under paragraph 6 (b) of this Article.

Article 76

Voting

1. Each member of the Executive Board shall have one vote.

2. Decisions of the Executive Board shall be made by a majority of the votes cast.

Article 77

Sessions, Procedure and Officers.

1. The Executive Board shall adopt its own rules of procedure, including rules concerning the convening of its sessions. The rules of procedure shall be subject to confirmation by the Conference.

Sub-paragraph 5 (a).

See the second note to paragraph 1 of Alternative A.

2. The Executive Board shall annually elect its Chairman and other officers, who shall be eligible for re-election.

3. The Chairman of the Executive Board shall be entitled *ex officio* to participate, without the right to vote, in the deliberations of the Conference.

4. Any Member of the Organization which is not on the Executive Board, shall be invited to participate in the discussion by the Board of any matter of particular and substantial concern to that Member, and shall, for the purpose of such discussion, have all the rights of Members on the Board, except the right to vote.

Article 78

Powers and Duties

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

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

SECTION D.—THE COMMISSIONS

Article 79

Establishment and Functions

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

Article 80

Composition and Procedure

1. Except as otherwise decided by the Conference, Commissions shall be composed of persons chosen by the Executive Board. The persons so chosen shall be qualified by training or experience to carry out the functions of the Commissions.

2. The number of members, which shall not exceed seven, of each Commission and the conditions of their service shall be determined in accordance with regulations prescribed by the Conference.

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

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

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

SECTION E.—THE TARIFF COMMITTEE

Article 81

The Tariff Committee

1. There shall be a Tariff Committee which shall act on behalf of the Organization in initiating the negotiations provided for under paragraph 1 of Article 17 and in the making of recommendations and determinations pursuant to paragraph 2 of Article 17.

2. The Tariff Committee shall consist of those contracting parties to the General Agreement on Tariffs and Trade referred to in paragraph 1 (*d*) of Article 17 which are Members of the Organization.

3. [Provisions relating to the voting power of each member].

4. [Provisions relating to the majority of votes required for decisions of the Committee].

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

SECTION F.—THE DIRECTOR-GENERAL AND STAFF

Article 82

The Director-General

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

2. The Director-General or his representative shall be entitled to participate, without the right to vote, in all meetings of the various organs of the Organization.

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

Article 83

The Staff

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

2. The paramount consideration in the selection of the Staff and in the determination of its conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity, due regard being paid to the importance of recruitment on as wide a geographical basis as possible.

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

SECTION G.—OTHER ORGANIZATIONAL PROVISIONS

Article 84

Relations with other Organizations

1. The Organization shall be brought into relationship with the United Nations as soon as practicable as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations. This relationship shall be effected by agreement to be approved by the Conference. Any such agreement shall provide for effective co-operation and the avoidance of unnecessary duplication in the activities of the respective organizations.

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

3. The Organization may make suitable arrangements for consultation and co-operation with non-governmental organizations concerned with matters within the scope of this Charter.

4. Whenever the Conference and the competent authorities of any other inter-governmental organizations whose purposes and functions lie within the scope of this Charter, deem it desirable

- (a) To incorporate such other inter-governmental organization into the Organization, or
- (b) To effect a transfer of all or a part only of its functions and resources to the Organization, or
- (c) To bring it under the supervision or authority of the Organization, the Director-General, subject to the approval of the Conference, may enter into an appropriate agreement. Members shall, in conformity with their international obligations, take the action necessary to give effect to any such agreement.

Article 85

International Responsibilities of the Director-General, Staff and Members of Commission

1. The responsibilities of the Director-General and of the Staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government, or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials.

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

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

Article 86

International Legal Status of the Organization

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

Article 87

Status of the Organization in the Territory of Members

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

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

3. Such legal capacity, privileges and immunities shall be more particularly defined in an agreement to be prepared in consultation with the Secretary-General of the United Nations and concluded between the Members and the Organization.

Article 88

Contributions

Each Member shall contribute promptly to the Organization its share of the expenditures of the Organization as apportioned by the Conference. A Member which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the organs of the Organization if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Conference may, nevertheless, permit such a Member to vote, if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

CHAPTER VIII.—SETTLEMENT OF DIFFERENCES— INTERPRETATION

Article 89

Consultation between Members

If any Member should consider that any benefit accruing to it directly or indirectly under this Charter is being nullified or impaired, or that the attainment of any of the objectives set forth in Article 1 is being impeded, as a result of

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

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

Article 90

Reference to the Organization

1. If the matter is not satisfactorily adjusted within a reasonable time or if it falls within Article 89 (c), it may be referred to the Executive Board or, with the approval of the Executive Board, directly to the Conference. The Executive Board or the Conference, as the case may be, shall promptly investigate any matter so referred and shall make recommendations to the Members which it considers to be concerned or give a ruling on the matter, as appropriate. It may in the course of such investigation consult with Members, the Commissions of the Organization, the Economic and Social Council of the United Nations and any inter-governmental organization, in cases where it considers such consultation necessary.

Chapter VIII.

The Preparatory Committee points out that a limited time has been devoted to the study of the means of providing for interpretation of the Charter and for the settlement of differences among Members and between Members and the Organization. Therefore the Preparatory Committee recommends that this subject should receive early and full re-examination by the World Trade Conference and the drafts contained in this Report have been prepared on the assumption that this course will be followed.

2. The Executive Board may refer the matter, with the consent of the Members concerned, to arbitration upon such terms as may be agreed between the Board and such members.

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

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

Article 91

Reference to International Court of Justice

1. The Conference or the Executive Board may, in accordance with arrangements made pursuant to paragraph 2 of Article 96 of the Charter of the United Nations, request from the International Court of Justice advisory opinions on legal questions arising within the scope of the activities of the Organization.

2. Any resolution of the Conference under paragraph 3 of Article 90 or decision of the Conference under any other Article of this Charter shall be subject to review by the International Court of Justice through the means of a request by the Organization for an advisory opinion pursuant to the Statute of the International Court of Justice. The request for review of such resolution or decision shall be made by the Organization, in appropriate form, upon the instance of any substantially interested Member.

3. The request for an advisory opinion shall be accompanied by a statement, to be furnished by the Organization in consultation with the Members substantially interested, of the facts underlying the question

Article 90.

Paragraph 2.

The Delegation of the United Kingdom reserved its position on this paragraph.

Article 91.

Paragraph 2.

The Delegation of Australia reserved its position on this paragraph.

upon which the opinion of the Court is requested. The Organization shall supply to the Court such further information as the Court may require.

4. Pending the delivery of the opinion of the International Court of Justice, the resolution or decision of the Conference shall have full force and effect; *Provided* that the Conference shall suspend the operation of any such resolution or decision pending the delivery of the opinion where in the view of the Conference damage difficult to repair would otherwise be caused to a Member concerned.

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

Article 92

Miscellaneous Provisions

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

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

3. The Members undertake that they will not have recourse to any procedure other than the procedures envisaged in this Charter for complaints and the settlement of difficulties arising out of its operation, nor, without prejudice to any other international agreement, to unilateral sanctions of any kind on the ground that there has been a violation of an obligation of this Charter, in advance of a complaint to the Organization and a final decision of the Organization establishing such violation.

4. The Conference and the Executive Board shall establish such rules of procedure as may be necessary to carry out the provisions of this Chapter. The rules of the Conference shall include provisions concerning the maintenance in force or suspension of any rulings of the Executive Board pending review by the Conference under paragraph 3 of Article 90.

CHAPTER IX.—GENERAL PROVISIONS

Article 93

Relations with Non-Members

Alternative A.

1. Nothing in this Charter shall preclude any Member from concluding or maintaining commercial treaties or maintaining economic relations with non-Members; *Provided* that no Member shall seek preferential export or import duties or taxes or exclusive advantages in its trade with any non-Member.

2. If a substantial part of any Member's foreign trade is with non-Members, such Member shall be entitled to suspend the application of any of the provisions of this Charter; *Provided* that their execution causes or threatens to cause a serious injury to its legitimate economic interests.

3. Any Member shall afford the Organization and directly affected Members an adequate opportunity to consult with it in respect of its action and of the best way which would enable the Member concerned to safeguard its interests without prejudicing the general purposes and objectives of this Charter and the legitimate interests of the above-mentioned Members.

If no adjustment can be effected, the Member concerned may withdraw from the Organization at any time by written notice addressed to the Director-General either on its own behalf or on behalf of a territory which is at the time self-governing in respect of matters provided for by this Charter, giving reasons therefor. This withdrawal shall become effective on the date such notice is received. The Director-General shall immediately notify all other Members.

Article 93.

The Preparatory Committee transmits these three texts to the World Conference, without expressing at this stage any judgment concerning the merits of one proposal as against another, in order to assist the World Conference in determining, in the light of all relevant circumstances, the text to be incorporated in the Charter governing relations with non-Members.

Some question was raised as to the status of a Member of the United Nations if it should fail to become a Member of the Organization and to the status of a country not eligible for membership in the Organization. The World Conference may wish to seek expert opinion as to whether, under these circumstances, any of the drafts would be in conflict with the obligations of Members of the United Nations.

In this connection the Preparatory Committee calls the attention of the World Conference to the definition of a "non-Member" in paragraph 7 of Alternative "B" and to the words "although qualified to do so" in paragraph 3 of Alternative "C" which would exclude from the scope of all or some of the provisions of the Article non-Member countries which were not qualified for Membership. The World Conference may wish to consider whether these particular passages should be retained or deleted in the light of the resolution regarding Spain which the General Assembly adopted on 12 December 1946.

Alternative B.

1. No Member shall seek exclusive or preferential advantages for its trade with any non-Member.

2. Any Member wishing to maintain or enter into a commercial agreement with a non-member which extends or would extend to the non-Member any of the benefits of Chapter IV of this Charter or any of the tariff reductions effected by the Member concerned in pursuance of Article 17 of the Charter shall seek the approval of the Organization for such a course; *Provided* that no Member shall be required to terminate any such existing agreement until it has received written notification from the Organization of its decision in respect of that agreement in accordance with the procedures laid down in this Article.

3. In deciding whether it should grant approval in respect of the question referred to in paragraph (2) of this Article, the Organization shall have regard to the following considerations:

- (a) Whether or not the agreement concerned does or would substantially injure the interests of other Members;
- (b) Whether or not the termination of an existing agreement of this nature would substantially injure the interests of the Member concerned;
- (c) Whether or not the expansion of international trade and the promotion of the purposes of the Organization as laid down in this Charter would be adversely affected if the agreement were maintained or put into effect.

4. A Member may apply to the Organization at any time for approval of any agreement which it proposes to conclude with a non-Member and to which the provisions of paragraph 2 of this Article apply, but, in the case of any such agreement which exists at the date on which this Charter comes into force for that Member, application for approval under the provisions of paragraph 2 of this Article shall be made within a period of one year from that date.

5. Within sixty days of its receipt of written notification of a decision by the Organization disapproving any agreement to which the provisions of paragraph 2 of this Article apply, a Member *either* shall inform the Organization of its acceptance of the decision, in which case the Member shall take steps to terminate any such existing agreement and shall not extend or continue to extend to the non-Member the benefits to Members deriving from the negotiations completed in accordance with Article 17 of this Charter, *or*, if it is unwilling to accept the decision of the Organization, may give notice in writing to the Director-General of its withdrawal from the Organization, such withdrawal to become effective sixty days after such notice is given.

6. Nothing in this Article shall be interpreted as overriding any of the economic provisions in the treaties of peace between the Allied and Associated Powers and the States which were their enemies during the Second World War.

7. For the purposes of this Article, the term "non-Member" shall mean a country which, although qualified to become a Member, has not become a Member or has withdrawn from the Organization.

Alternative C.

1. No Member shall seek preferential advantages from any non-Member so as to result, directly or indirectly, in the application by such non-Member to any Member of measures which, if applied by a Member, would be inconsistent with the provisions of this Charter.

2. No Member shall be a party to any agreement or other arrangement with any non-Member under which such non-Member is or would be contractually entitled to any of the benefits provided to Members by virtue of Chapter IV ; *Provided* that, with respect to any such existing agreement, the Organization shall release any Member from the provisions of this paragraph if it finds that the effect of termination of the agreement would be more detrimental to the interests of Members as a whole than its continuation.

3. No Member shall, except with the concurrence of the Organization, extend to the trade of any other country, which, although qualified to do so has not become a Member or has withdrawn from the Organization any of the reductions in tariffs effected by such Member pursuant to Article 17, or extend to such country any reduction in a preferential tariff rate, even though such reduction would be permitted under the terms of Articles 16 and 17.

4. The provisions of paragraphs 2 and 3 of this Article shall become effective for any Member upon the expiration of one year from the day on which this Charter enters into force with respect to such Member ; *Provided* that, this period may be extended by the Organization, in respect of the relations of any Member with any non-Member, for such further periods as the Organization may prescribe. At any time before the expiration of any such period, a Member may request the Organization in writing for such an extension, in which event the period will be considered to be extended until a reply is received from the Organization. If the Organization disapproves the extension requested, the Member shall then be free, not later than sixty days from the day on which notice of such disapproval is received by the Member, to withdraw from the Organization effective upon the expiration of sixty days from the date on which written notice of such withdrawal is received by the Organization.

5. At the earliest possible date after any provision of this Charter becomes effective, Members shall terminate, either by agreement or in accordance with their terms, any international obligations they may have with non-Members which would prevent them from giving full effect to such provision.

6. Nothing in this Article shall be interpreted as requiring the withdrawal of any Member from membership in other inter-governmental organizations of the type described in Article 57 of the Charter of the United Nations or as overriding any of the economic provisions in the treaties of peace between the Allied and Associated Powers and the States which were their enemies during the Second World War.

Article 94

General Exceptions

Nothing in this Charter shall be construed

- (a) To require any Member to furnish any information the disclosure of which it considers contrary to its essential security interests, or
- (b) To prevent any Member from taking any action which it considers necessary for the protection of its essential security interests
 - (i) Relating to fissionable materials or the materials from which they are derived ;
 - (ii) Relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment ;
 - (iii) Taken in time of war or other emergency in international relations ; or
- (c) To prevent any Member from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Article 95

Amendments

1. Any amendment to this Charter which does not involve a change in the obligations assumed by Members shall become effective upon receiving the approval of the Conference by the affirmative votes of two-thirds of the Members.

2. Any amendment to this Charter which involves a change in the obligations assumed by Members shall, after receiving the approval of the Conference, become effective for each Member accepting the amendment, upon acceptance on the part of two-thirds of the Members and thereafter for each remaining Member on acceptance by it. The Conference may at any time determine that any amendment under this

paragraph is of such a nature that all Members which have not accepted it within a period specified by the Conference shall be required to withdraw from the Organization; *Provided* that the Conference may, by the affirmative votes of two-thirds of the Members present and voting, determine the conditions under which this requirement shall be waived with respect to any such Member. A Member not accepting an amendment shall be free to withdraw from the Organization upon the expiration of six months from the day on which written notice of such withdrawal is received by the Director-General.

3. The Conference shall, by the affirmative votes of two-thirds of the Members, adopt rules of procedure for carrying out the provisions of this Article.

Article 96

Review of the Charter

The Conference shall convene a special session for the purpose of reviewing the provisions of this Charter before the end of the tenth year after its entry into force.

Article 97

Withdrawal and Termination

1. Without prejudice to the provisions of paragraph 2 of Article 17, paragraph 4 of Article 90, or paragraph 2 of Article 95, any Member may withdraw from the Organization either on its own behalf or on behalf of a separate customs territory on behalf of which it has accepted this Charter in accordance with the provisions of Article 99 at any time after the expiration of three years from the day of the entry into force of this Charter, by written notice addressed to the Director-General. The Director-General shall immediately notify all other Members.

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

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

Article 98

Entry into Force and Registration

1. The Government of each State accepting this Charter shall deposit an instrument of acceptance with the Secretary-General of the United Nations, who will inform all governments represented at the United Nations Conference on Trade and Employment and all Members of the United Nations not so represented, of the date of deposit of each instrument of acceptance and of the day on which this Charter enters into force.

2. This Charter shall enter into force on the sixtieth day following the day on which the number of governments represented at the United Nations Conference on Trade and Employment which have deposited instruments of acceptance pursuant to paragraph 1 of this Article shall reach twenty, and the instrument of acceptance of each other accepting government shall take effect on the sixtieth day following the day on which it is deposited; *Provided* that, if this Charter shall not have entered into force by 194., any of the governments applying the General Agreement on Tariffs and Trade dated 194., together with any other governments represented at the United Nations Conference on Trade and Employment, may upon conditions to be agreed between them, bring this Charter into force. Any instrument of acceptance deposited with the Secretary-General of the United Nations shall be taken as covering both procedures for bringing this Charter into force, unless it expressly provides to the contrary or is withdrawn before the entry into force of this Charter.

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

Article 99

Territorial Application

1. Each government accepting this Charter does so in respect of its metropolitan territory and of the other territories for which it has international responsibility; *Provided* that it may at the time of acceptance declare that any separate customs territory for which it has international responsibility possesses full autonomy in the conduct of its external commercial relations and of the other matters provided for by this Charter, and that acceptance does not relate to such territory.

2. Each Member may, at any time, accept this Charter in accordance with paragraph 1 of Article 98 on behalf of any separate customs territory referred to in the proviso of paragraph 1 of this Article, which is willing to undertake the obligations of this Charter.

3. Each Member shall take such reasonable measures as may be available to it to assure observance of the provisions of this Charter by the regional and local governments and authorities within its territory.

Article 100

Deposits of Texts

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

DONE at this day of One Thousand Nine Hundred and Forty

ANNEXES PERTAINING TO PARAGRAPH 2 OF ARTICLE 16

ANNEX A.—LIST OF TERRITORIES REFERRED TO IN PARAGRAPH 2 (a) OF ARTICLE 16

United Kingdom of Great Britain and Northern Ireland.
Dependent territories of the United Kingdom of Great Britain and Northern Ireland.
Canada.
Commonwealth of Australia.
Dependent territories of the Commonwealth of Australia.
New Zealand.
Dependent territories of New Zealand.
Union of South Africa including South West Africa.
Ireland.
India (as at 10 April 1947).
Newfoundland.
Southern Rhodesia.
Burma.
Ceylon.

Certain of the territories listed above have two or more preferential rates in force for certain products. Any such territory may, by agreement with the other Members which are principal suppliers of such products at the most-favoured-nation rate, substitute for such preferential rates a single preferential rate which shall not on the whole be less favourable to suppliers at the most-favoured-nation rate than the preferences in force prior to such substitution.

The imposition of a margin of tariff preference to replace a margin of preference in an internal tax existing on 10 April 1947 exclusively between two or more of the territories listed in this Annex or to replace the preferential quantitative arrangements described in the following paragraph shall not be deemed to constitute an increase in a margin of tariff preference.

The preferential arrangements referred to in paragraph 5 (b) of Article 23 are those existing in the United Kingdom on 10 April 1947, under contractual agreements with the Governments of Canada, Australia and New Zealand, in respect of chilled and frozen beef and veal, frozen mutton and lamb, chilled and frozen pork, and bacon [and hams]. It is the intention, without prejudice to any action taken under sub-paragraph (b) of Part I of Article 43, that these arrangements shall be eliminated or replaced by tariff preferences, and that negotiations to this end shall take place as soon as practicable among the countries substantially concerned or involved.

The film hire tax in force in New Zealand on 10 April 1947 shall, for the purpose of this Charter, be treated as a customs duty falling within Articles 16 and 17. The renters' film quota in force in New Zealand on 10 April 1947, shall for the purposes of this Charter be treated as a screen quota falling within Article 19.

The Delegation of Brazil has recorded a reservation on Article 23, paragraph 5 (b).

ANNEX B.—LIST OF TERRITORIES OF THE FRENCH UNION
REFERRED TO IN PARAGRAPH 2 (b) OF ARTICLE 16

France.
French Equatorial Africa (Treaty Basin of the Congo* and other territories).
French West Africa.
Cameroons under French Mandate.*
French Somali Coast and Dependencies.
French Establishments in India.*
French Establishments in Oceania.
French Establishments in the Condominium of the New Hebrides.*
Guadeloupe and Dependencies.
French Guiana.
Indo-China.
Madagascar and Dependencies.
Morocco (French Zone).*
Martinique.
New Caledonia and Dependencies.
Reunion.
Saint-Pierre and Miquelon.
Togo under French Mandate.*
Tunisia.

* For imports into Metropolitan France.

ANNEX C.—LIST OF TERRITORIES OF THE CUSTOMS UNION
OF BELGIUM, LUXEMBURG AND THE NETHERLANDS
REFERRED TO IN PARAGRAPH 2 (b) OF ARTICLE 16

The Economic Union of Belgium and Luxemburg.
Belgium Congo.
Ruanda Urundi.
The Netherlands.
Netherlands Indies.
Surinam.
Curaçao.

For imports into the metropolitan territories of the Customs Union.

ANNEX D.—LIST OF TERRITORIES OF THE UNITED STATES
OF AMERICA REFERRED TO IN PARAGRAPH 2 (b) OF
ARTICLE 16

United States of America (customs territory).
Dependent territories of the United States of America.
Republic of the Philippines.

The imposition of a margin of tariff preference to replace a margin of preference in an internal tax existing on 10 April 1947 exclusively between two or more of the territories listed in this Annex, shall not be deemed to constitute an increase in a margin of tariff preference.

ANNEX E.—LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN CHILE AND NEIGHBOURING COUNTRIES REFERRED TO IN PARAGRAPH 2 (d) OF ARTICLE 16

Preferences in force exclusively between, on the one hand,
Chile
and, on the other hand,
1. Argentina
2. Bolivia
3. Peru,
respectively.

ANNEX F.—LIST OF TERRITORIES COVERED BY PREFERENTIAL ARRANGEMENTS BETWEEN THE SYRO-LEBANESE CUSTOMS UNION AND NEIGHBOURING COUNTRIES REFERRED TO IN PARAGRAPH 2 (d) OF ARTICLE 16

Preferences in force exclusively between, on the one hand,
The Syro-Lebanese Customs Union
and, on the other hand,
1. Palestine
2. Transjordan,
respectively.

APPENDIX

1. The following formulæ for determining the number of votes to be allocated to each Member were proposed, each by one delegation.

Formula A

- (a) 1 vote for every 10 millions of population.
- (b) 1 vote for every 50 million U.S. dollars of external trade.
- (c) 1 vote for every 500 million U.S. dollars of national income.
- (d) 1 vote for every 10% of the percentage of external trade to national income.
- (e) 100 basic votes.

Formula B

- (a) 1 vote for every 50 million U.S. dollars of foreign trade.
- (b) 1 vote for every 500 million U.S. dollars of national income.
- (c) 1 vote for every 25 U.S. dollars of foreign trade *per capita*.
- (d) 10 basic votes.

2. For the purposes of the initial allocation of votes, the factors (b), (c) and (d) in Formula A and (a), (b) and (c) in Formula B shall be calculated on the average of the last three pre-war calendar years in which the Member was in a position to conduct normal trade and the full calendar year preceding the entry into force of the Charter. The succeeding calculations of these factors to be made at the time of the periodic review provided for in paragraph 9 of Article 75 (using Alternative A of that Article) shall be based on the average of the three immediately preceding calendar years.

3. The delegations who proposed the formulæ set out above submitted the following tables showing the results of their application. The statistical material used in these tables was the best available to these delegations at the Second Session. More accurate material will be supplied to the World Conference by the statistical services of the United Nations.

Table A (using Formula A)

Country.	Population (Latest Information available).	External Trade, 1937.	National Income, 1940.	Percentage of trade to National Income.	Total Votes.	Votes as Percentage of Total listed %.
	Millions	Million \$	Million \$			
Albania	1	10	n.a.	—	102*	1.2
Argentina	14	1,239	2,800	44	136	1.7
Australia	7	1,090	3,200	34	132	1.6
Austria	7	501	n.a.	—	116*	1.4
Belgium and Colonies	19	1,748	2,350	74	149	1.8
Bolivia	4	65	160	41	105	1.3
Brazil	45	677	2,500	27	126	1.5
Bulgaria	7	124	805	15	107	1.3
Burma	18	276	n.a.	—	114*	1.4
Canada	12	1,824	5,800	31	152	1.9
Ceylon	6	205	375	55	112	1.4
Chile	5	283	400	71	115	1.4
China	455	535	12,000	4	181	2.2
Colombia	10	182	700	26	109	1.3
Costa Rica	1	23	50	46	105	1.3
Cuba	5	315	420	75	115	1.4
Czechoslovakia	14	800	3,000	27	126	1.5
Denmark	4	730	1,511	48	123	1.5
Dominican Republic	2	30	n.a.	—	103*	1.3
Ecuador	3	27	130	21	103	1.3
Egypt	17	393	1,400	28	116	1.4
Ethiopia	6	n.a.	n.a.	—	101*	1.2
Finland	4	404	559	72	116	1.4
France and Colonies	106	2,306	11,300	20	182	2.2
Greece	8	224	1,000	22	109	1.3
Guatemala	3	37	160	23	103	1.3
Haiti	3	18	130	14	101	1.2
Honduras	1	20	50	40	104	1.3
Hungary	9	315	n.a.	—	110*	1.3
Iceland	0.1	n.a.	n.a.	—	101*	1.2
India (before partition)	419	1,369	9,600	14	189	2.4
Iran	10	193	n.a.	—	108*	1.3
Iraq	4	75	n.a.	—	104*	1.3
Italy	46	1,299	4,800	27	144	1.8
Lebanon	n.a.	n.a.	n.a.	—	100*	1.2
Liberia	1	7	n.a.	—	101*	1.2
Luxemburg	0.3	n.a.	n.a.	—	103*	1.3
Mexico	22	423	1,400	30	116	1.4
Netherlands and Colonies	80	2,284	3,500	65	168	2.0
New Zealand	2	482	600	80	119	1.5
Nicaragua	1	13	50	26	103	1.3
Norway	3	523	750	70	119	1.5
Panama	1	26	40	65	108	1.3
Paraguay	1	17	40	43	104	1.3
Peru	7	151	450	34	108	1.3
Philippines	17	260	n.a.	—	110*	1.3
Poland	24	463	4,000	12	120	1.5
Portugal and Colonies	19	187	n.a.	—	112*	1.4
Roumania	16	378	n.a.	—	114*	1.4
Salvador	2	26	80	33	104	1.3
Saudi Arabia	4	n.a.	n.a.	—	101*	1.2
Siam	16	126	n.a.	—	108*	1.3
Southern Rhodesia	1.8	67	150	45	106	1.3
Sweden	7	1,050	2,900	36	132	1.6
Switzerland	4	706	2,400	29	122	1.5
Syria	n.a.	n.a.	n.a.	—	100*	1.2
Transjordan	0.5	8	n.a.	—	100*	1.2
Turkey	19	202	n.a.	—	112*	1.4

Table A—continued

Country.	Population (Latest Information available).	External Trade, 1937.	National Income, 1940.	Percentage of trade to National Income.	Total Votes.	Votes as Percentage of Total listed §.
	Millions	Million \$	Million \$			
Union of South Africa ..	11	684	1,000	68	124	1.5
U.S.S.R.	193	817	32,000	3	199	2.4
United Kingdom and Colonies	106	8,115	26,400	31	329	4.0
United States of America ..	142	6,379	77,800	8	399	4.9
Uruguay	2	100	340	29	106	1.3
Venezuela	4	332	120	28	110	1.3
Yemen	3	n.a.	n.a.	—	100*	1.2
Yugoslavia	16	263	1,500	18	112	1.4

National income figures are based on those prepared in connection with the calculations for the Monetary Fund voting system.

* Indicates national figure inserted to complete the illustration.

n.a. = not available.

§ = corresponding percentage on "one-State one-Vote" system is 1.5.

Table B (using Formula B)

Formula—Column (1) = 1 vote per 50 million dollars.
 Column (2) = 1 vote per 500 million dollars.
 Column (3) = 1 vote per 25 dollars trade *per capita*.
 Column (4) = 10 votes as basic vote.

Column	(1)	(2)	(3)	(4)	(5)	(6)
Country.	Foreign Trade (Av. 1938 and Latest Twelve Months available).	National Income, 1940.	Trade <i>per Capita</i> .	Basic Vote.	Total Votes.	Votes as Percentage of Total Listed.
Albania	n.a.	n.a.	—	10	—	—
Argentina	26	6	4	10	46	2.6
Australia	26	6	7	10	49	2.8
Austria	5	n.a.	2	10	—	—
Belgium and Colonies ..	37	5	4	10	56	3.1
Bolivia	n.a.	*	—	10	—	—
Brazil	23	5	1	10	39	2.2
Bulgaria	n.a.	2	—	10	—	—
Burma	6	n.a.	1	10	—	—
Canada	59	12	10	10	91	5.1
Ceylon	5	1	2	10	18	1.0
Chile	5	1	2	10	18	1.0
China	22	24	†	10	56	3.1
Colombia	6	1	1	10	18	1.0
Costa Rica	1	*	1	10	12	0.7
Cuba	7	1	3	10	21	1.2
Czechoslovakia	11	6	2	10	29	1.6
Denmark	17	3	8	10	38	2.1
Dominican Republic ..	1	n.a.	1	10	—	—
Ecuador	1	*	1	10	12	0.7
Egypt	9	3	1	10	23	1.3
Ethiopia	n.a.	n.a.	—	10	—	—
Finland	n.a.	1	—	10	—	—
France and Colonies ..	78	23	1	10	112	6.3

Table B—continued

Column	(1)	(2)	(3)	(4)	(5)	(6)
Country.	Foreign Trade (Av. 1938 and Latest Twelve Months available).	National Income, 1940.	Trade <i>per</i> <i>Capita</i> .	Basic Vote.	Total Votes.	Votes as Percentage of Total Listed.
Greece	3	2	1	10	16	0.9
Guatemala	1	*	1	10	12	0.7
Haiti	1	*	†	10	11	0.6
Honduras	n.a.	*	—	10	—	—
Hungary	n.a.	n.a.	—	10	—	—
Iceland	n.a.	n.a.	—	10	—	—
India (before partition) ..	27	24	†	10	61	3.4
Iran	n.a.	n.a.	—	10	—	—
Iraq	n.a.	n.a.	—	10	—	—
Italy	n.a.	10	—	10	—	—
Lebanon	n.a.	n.a.	—	10	—	—
Liberia	n.a.	n.a.	—	10	—	—
Luxemburg	n.a.	n.a.	—	10	—	—
Mexico	12	3	1	10	26	1.5
Netherlands and Colonies ..	54	7	1	10	72	4.0
New Zealand	10	1	10	10	31	1.7
Nicaragua	§	*	†	10	10	0.6
Norway	12	2	8	10	32	1.8
Panama	n.a.	*	—	10	—	—
Paraguay	n.a.	*	—	10	—	—
Peru	4	1	1	10	16	0.9
Philippines	n.a.	n.a.	—	10	—	—
Poland	n.a.	8	—	10	—	—
Portugal and Colonies ..	7	n.a.	1	10	—	—
Roumania	n.a.	n.a.	—	10	—	—
Salvador, El	1	*	1	10	12	0.7
Saudi Arabia	n.a.	n.a.	—	10	—	—
Siam	n.a.	n.a.	—	10	—	—
Southern Rhodesia	2	*	2	10	14	0.8
Sweden	26	6	8	10	50	2.8
Switzerland	23	5	11	10	49	2.7
Syria	n.a.	n.a.	—	10	—	—
Transjordan	n.a.	n.a.	—	10	—	—
Turkey	n.a.	n.a.	—	10	—	—
Union of South Africa ..	14	2	3	10	29	1.6
U.S.S.R.	n.a.	64	—	10	—	—
United Kingdom and Colonies	213	53	4	10	280	15.7
United States of America ..	209	156	3	10	378	21.2
Uruguay	5	1	5	10	21	1.2
Venezuela	10	*	5	10	25	1.4
Yemen	n.a.	n.a.	—	10	—	—
Yugoslavia	n.a.	3	—	10	—	—

n.a. means not available.

* means less than 250 million dollars.

§ means less than 25 million dollars.

† means less than 12½ dollars *per capita*.

SOURCE :

Column (1) : Figures taken from U.N. *Monthly Bulletin of Statistics*, April and June 1947 ; League of Nations *Review of World Trade, 1938*, and *Network of World Trade, 1942*.

Column (2) : Figures taken from Table A.

Column (3) : Figures based upon population data shown in Table A.

PART III.—ENCLOSURES

ENCLOSURE 1.—EXTRACTS FROM THE INTERIM REPORT OF THE SECOND SESSION TO THE FIFTH SESSION OF THE ECONOMIC AND SOCIAL COUNCIL (9 July 1947)

RECOMMENDATIONS OF THE PREPARATORY COMMITTEE

1. *Annotated Draft Agenda and Convention for the Conference on Trade and Employment*

The Preparatory Committee adopted the topics suggested by the Economic and Social Council in its resolution as the substance of its agenda for the preparation of the draft Charter for an International Trade Organization. As at present drafted the Charter includes chapters under the following headings :

Employment and Economic Activity,

Economic Development,

General Commercial Policy,

Restrictive Business Practices,

Inter-governmental Commodity Arrangements,

together with provisions relating to organization, membership and other miscellaneous matters.

The Preparatory Committee recommends that these headings should be adopted by the Conference on Trade and Employment as the substance of its agenda and that the relevant chapters of the draft Charter should be taken as the principal working-paper under each heading. As additional annotations to the agenda there will also be available the Reports of the First and Second Sessions of the Preparatory Committee and of the Drafting Committee. The three Reports will indicate to the World Conference the development of the discussions leading to the text of the draft Charter submitted by the Preparatory Committee.

2. *Date and Place of the Conference on Trade and Employment*

In arriving at a recommendation as to the date on which the Conference should be convened the Preparatory Committee has been much impressed with the desirability of holding the Conference as soon as possible after the termination of the work of the Preparatory Committee. It was felt by the Committee that the impetus achieved in the preparation for an International Trade Organization should be maintained and that any substantial delay would have the effect of postponing for a considerable period the coming into force of the Charter and the establishment of the Organization. On the other hand, the Preparatory Committee has given consideration to the need for providing a reasonable

interval between the end of the current session of the Committee and the convening of the World Conference in order to provide as much time as possible for governments which did not participate in the Preparatory Committee to study the work of the Second Session. In this connection the Preparatory Committee has taken account of the fact that the full reports of the First Session and of the Drafting Committee have been in the hands of all Members of the United Nations for many months and that arrangements have been made for such Members to receive all documents of the Second Session as its work proceeds.

In all the circumstances the Committee feels it is undesirable to delay the convening of the Conference much beyond the middle of November. Accordingly, the Preparatory Committee recommends that the Conference should be convened on 21 November 1947. The Preparatory Committee considers that the Conference should be held in a suitable place in the Western Hemisphere, and therefore recommends, in view of the cordial and generous invitation extended by the Government of Cuba, that the Conference be held in Havana, if practicable.

3. Invitation of non-Members of the United Nations to the Conference

The Preparatory Committee recommends that, subject to the resolution regarding Spain adopted by the General Assembly on 12 December 1946, those States non-Members of the United Nations which have an appreciable interest in world trade should be invited to the Conference on Trade and Employment. It therefore recommends that the following States non-Members should be invited: Albania, Austria, Bulgaria, Eire, Finland, Hungary, Italy, Portugal, Roumania, Switzerland, Transjordan and the Yemen.

The Preparatory Committee recommends further that the Economic and Social Council should make provision for the attendance of persons qualified to represent the appropriate authorities in Germany, Japan and Korea.

The Preparatory Committee, having in mind specifically the position of the Governments of Burma, Ceylon and Southern Rhodesia, wishes to draw the attention of the Economic and Social Council to the position of territories under the sovereignty of a Member to the United Nations which are self-governing in matters provided for by the draft Charter and for that reason, in the opinion of the Preparatory Committee, ought to be invited to participate in the work of the Conference.

THE GENERAL AGREEMENT ON TARIFFS AND TRADE

1. Considering that the task of the World Conference would be facilitated if concrete action were taken by the principal trading nations to enter into reciprocal negotiations directed to the substantial reduction

of tariffs and to the elimination of preferences on a mutually advantageous basis, the Preparatory Committee adopted a Resolution at its First Session regarding the carrying out of tariff negotiations under its sponsorship in connection with, and as part of, the Second Session.

2. The governments represented at the Second Session of the Preparatory Committee are now engaged in the negotiations foreseen in the above-mentioned Resolution. These negotiations have not yet been completed.

3. It is expected that the concessions resulting from these negotiations, together with such other provisions as may be appropriate, will at the end of the Second Session be incorporated in a General Agreement on Tariffs and Trade.

**ENCLOSURE 2.—RESOLUTIONS ADOPTED AT THE FIFTH SESSION
OF THE ECONOMIC AND SOCIAL COUNCIL RELATING TO THE
INTERIM REPORT OF THE SECOND SESSION OF THE
PREPARATORY COMMITTEE**

Resolutions adopted 28 July 1947

Agenda of the Conference

The Economic and Social Council takes note of the Interim Report of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment and approves the recommendations made therein concerning the agenda of the United Nations Conference on Trade and Employment.

Date and Place of the Conference

The Economic and Social Council having considered the Resolution of the Preparatory Committee concerning the date and place of the United Nations Conference on Trade and Employment, and

Having noted that the invitation of the Cuban Government to hold the United Nations Conference on Trade and Employment in Havana is accompanied by an offer of conference facilities and financial assistance to meet the additional costs to the United Nations of holding the Conference away from Headquarters.

RESOLVES that the United Nations Conference on Trade and Employment should be held at Havana, Cuba, on 21 November 1947.

Resolutions adopted 1 August 1947

Voting Rights at the Conference

The Economic and Social Council having considered the Resolution of the Preparatory Committee relating to the invitations to the United Nations Conference on Trade and Employment,

RESOLVES that voting rights shall be exercised only by Members of the United Nations attending the Conference.

Invitations to States not Members of the United Nations

The Economic and Social Council having considered the Resolution of the Preparatory Committee relating to the invitation to the Conference of States not Members of the United Nations,

RESOLVES that invitations should be sent to the following states not Members of the United Nations which have an appreciable interest in world trade to participate in the work of the United Nations Conference

on Trade and Employment : Albania, Austria, Bulgaria, Eire, Finland, Hungary, Italy, Pakistan, Portugal, Roumania, Switzerland, Transjordan and the Yemen.

Invitation to the Allied Control Authorities in Germany, Japan and Korea

The Economic and Social Council

RESOLVES that the Allied Control Authorities in Germany, Japan and Korea be invited to send qualified representatives to the United Nations Conference on Trade and Employment in a consultative capacity.

Invitation to the Governments of Burma, Ceylon and Southern Rhodesia

The Economic and Social Council having noted that it became clear during the negotiations which have taken place in Geneva during the Second Session of the Preparatory Committee that Burma, Ceylon and Southern Rhodesia, although under the sovereignty of a Member of the United Nations, possess full autonomy in the conduct of their external commercial relations, and that the Preparatory Committee considers that such separate customs territories should be invited to participate in the work of the Conference,

RESOLVES that invitations should be sent, through the Government of the United Kingdom, to the Governments of Burma, Ceylon and Southern Rhodesia to participate in the work of the United Nations Conference on Trade and Employment.

Invitation to the Government of the Indonesian Republic

The Economic and Social Council, recognizing that the Indonesian Republic enjoys in fact autonomy in the conduct of its external commercial relations.

Recognizing further that the participation of the Government of the Indonesian Republic will promote the aims of the Conference,

RESOLVES to send a direct invitation to the Government of the Indonesian Republic to participate in the United Nations Conference on Trade and Employment.

Invitations to Specialized Agencies and Other Organizations

The Economic and Social Council

RESOLVES that invitations to be represented at the Conference be sent to the Specialized Agencies and other appropriate Inter-governmental Organizations and Non-governmental Organizations in Category A.

ENCLOSURE 3.—SUB-COMMITTEES

Tariff Negotiations Working Party
Charter Steering Committee
Tariff Agreement Committee
Consultative Committee (with non-governmental organizations)
Sub-Committee on Chapter III
Sub-Committee on Chapter IV
Working Party on Technical Articles
Sub-Committee on Article 16, paragraph 5
Sub-Committee on Article 16, paragraph 6
Sub-Committee on Article 17
Sub-Committee on Article 18
Sub-Committee on Article 19
Sub-Committee on Article 20, paragraph 7
Sub-Committee on Article 21, old paragraph 3, new paragraph 2
Sub-Committee on Article 21, paragraph 2
Sub-Committee on Articles 14, 15, 24, 34, 35 and 38
Sub-Committee on Articles 25 and 27
Sub-Committee on Articles 26, 28 and 29
Sub-Committee on Article 30
Sub-Committee I on State Trading (Articles 31 and 32)
Sub-Committee II on State Trading (Article 33)
Sub-Committee on Article 36
Sub-Committee I on Chapter VI
Sub-Committee II on Chapter VI
Sub-Committee on Chapter VII
Working Party on Articles 48 and 49
Chapter VII Working Party on Definitions
Sub-Committee on Chapters I, II and VIII
Working Party on Article 1
Sub-Committee on Voting
Legal Drafting Committee

The numbers of Chapters, Articles and paragraphs indicated above are those of the New York Drafting Committee's Report (E/PC/T34).

By Authority: E. V. PAUL, Government Printer, Wellington.—1947.