SIXTH COMMITTEE: ORGANIZATION

ANNOTATED DRAFT AGENDA

INTRODUCTION

1. This Annotated Draft Agenda has been prepared on the basis of amendments submitted to the Secretariat by delegations up to 4 p.m. on Tuesday, 9 December 1947.

2. Square brackets indicate that it is proposed to omit from the Draft Charter those words contained in the brackets and underlining indicates that it is proposed to insert the words underlined.

ANNOTATED AGENDA

Chapter VII - International Trade Organization

Section A - Structure and Functions

The delegation of Mexico proposes that the title of Section A should be: "Structure, Functions and Seat".

Article 63 - Membership

A. Notes

1. The Preparatory Committee considered a suggestion to add to Article 63 provisions regarding the effect of suspension of, or expulsion from 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.

2. The delegation of France found itself able to accept paragraph 3 only on the condition that it could not be applied to Germany, a part of Germany or an Occupation Zone in Germany.

3. The Preparatory Committee noted that 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 applied under paragraph 3 of this Article for admission to the Organization, would have to be determined by the Conference of the Organization when the application was made, and the final draft of the Charter must so provide.
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(It was agreed on first reading to delete the above notes.)

B. Amendments Relating to the Whole of Article 68

1. The delegation of Burma proposes the following text for Article 68:

"1. The original Members of the Organization shall be those States and separate customs territories 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 and separate customs territories 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 99 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 of its external commercial relations and of the other matters provided for by this Charter and whose admission is approved by the Conference shall become a Member, 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
administered by the United Nations and to the Free Territory of Trieste."

2. The delegation of Burma explains the amendment it has proposed as follows:

"The separate customs territories which are present at this Conference are signatories to the Final Act of the General Agreement on Tariffs and Trade and if they apply the Agreement provisionally they will be represented at meetings of CONTRACTING PARTIES. (Article XXV and XXXII of General Agreement). However, according to Articles 68 and 81 of the Draft Charter these separate customs territories will not be on the Tariff Committee. There is still another confusion in paragraph 2 of Article 93 when in the proviso it is stated that any of the Governments applying the General Agreement on Tariffs and Trade ......... may, upon conditions to be agreed between them, bring this Charter into force. Such Governments may include any of the separate customs territories which have signed the Final Act."

"The separate customs territories which are signatories to the Final Act of the General Agreement have been invited to this Conference on the strength of their participation in trade negotiations in Geneva. They are present at this Conference independently of the metropolitan country. The metropolitan country is not responsible for their action in this Conference. Hence it is only equitable that these separate customs territories should become Members of the Organization."

(For the text of Article 68 as adopted on first reading see document E/CONF.2/C.6/5.)

C. Amendments Relating to Parts of Article 68

Paragraph 2

1. The delegation of Peru proposes the following amendment to paragraph 2:

"2. Any other state whose membership has been approved by the Conference shall become a Member of the Organization upon its acceptance acceptance."

2. The delegation of Mexico proposes to delete the words "as amended up to the date of such acceptance" in paragraph 2.

Paragraph 3

1. The delegation of Pakistan proposes to add the words "by the Conference" in the fourth line of paragraph 3 between the words "Organization" and "on such terms".

(In view of the redraft of Article 68 agreed on at first reading it might now be possible for this amendment to be withdrawn.)

2. The delegation of Mexico proposes to delete paragraph 3.
Paragraph 4

The delegation of Mexico proposes to delete paragraph 4.

Paragraph 5

1. The delegation of Italy proposes to delete the words "and to the Free Territory of Trieste".
   (This amendment will be discussed further on second reading.)
2. The delegation of Mexico proposes to delete paragraph 5.

Article 69 - Functions

A. Notes

The Preparatory Committee noted that the deletion of the mention of specific clauses of such nationals and enterprises in sub-paragraph (c) (i) should not be taken as indicating that these classes were not covered in the broad language of the text. Thus such language would cover treatment of, for example, commercial travellers, and foreign creditors in bankruptcy, insolvency or reorganization.

(It was agreed, on first reading, to delete this note.)

B. Amendments Relating to Parts of Article 69

1. The delegation of Argentina proposes that the words "and general economic development" at the end of sub-paragraph (a) should be amended to read "and general social-economic development".
   (It was agreed at the third meeting to postpone discussion of this amendment until Article 1 had been considered.)
2. The delegation of Mexico proposes to delete sub-paragraph (c) (i) as its provisions are covered by Article 12.
3. The delegation of Italy proposes to insert between (i) and (ii) of sub-paragraph (c) a new paragraph reading as follows:
   "to facilitate the reaching of a sound and stable level of economic activity also through compensation of demographic disequilibria between different countries."
   (It was agreed at the third meeting to discuss this amendment further at a later stage.)

Proposal to Insert a New Article 70

The delegation of Italy proposes that the following article should be inserted between the present Article 69 and 70:

"In the exercise of its functions the Organization shall avoid that a Member could suffer, in any manner, an unfair injury."

(It was agreed at the third meeting to discuss this amendment further at a later stage.)
Article 70 - Structure

1. The delegation of Mexico proposes the following amendment to Article 70:

"The Organization shall have a Conference, an Executive Board, an Economic Development Committee, a Tariff Committee, and Staff."

(At the fifth meeting a sub-committee was set up to consider this amendment.)

2. The delegation of Mexico proposes that the following should be inserted as Article 70-B:

"Article 70-B - Seat

The seat of the Organization shall be established in ..."

Section B - The Conference

Article 71 - Composition

The delegation of Iraq proposes to delete paragraph 2 of this article for the reason that no such provision is made in the Charter of the United Nations and it is thought advisable to leave the Conference free to adopt its own rules of procedure with regard to this point.

Article 72 - Voting

A. Notes

With reference to alternatives B and C, attention is directed to the two formulae for weighted voting set out in the Appendix to the Report of the Preparatory Committee. Formula A was suggested by the delegation of the United Kingdom while Formula B was suggested by the delegation of the United States. Paragraph 3 of the Appendix reads as follows:

"The delegations who proposed the formulae 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."

In this connection attention is directed to document E/CONF.2/4. The Secretariat intends to issue a revision of this document in the near future.

2. The Cuban delegation makes the following comments upon Article 72:

"1. The Cuban delegation is in favour of Alternative A, contained in the Article 72.

"2. As regards to the formulas for the considered vote, appearing in the Alternatives B and C, contained in the appendix as formulas A and B, the Cuban delegation wishes to make the statement since now that they shall not accept as elements for the consideration of the vote (in the event that it shall be necessary to establish such a voting system in extraordinary cases), those mentioned in the above specified form, inasmuch as they are ruled through a criterion of general economy, in lieu of limiting themselves to the international commerce."
commerce.

3. The Cuban delegation considers that before the Conference decides between the equalizing vote and the weighted vote, it must be clarified, as a previous question, which shall be the indexes that shall form the international commercial criterion. They, therefore, propose the following indexes be examined:

(a) That of imports or exports in absolute value, mentioned in a sole currency;
(b) That of the percentage of imports or exports in connection with the respective national incomes;
(c) That of the percentage of the import and export articles "manufactured" or "not manufactured" respectively;
(d) That of the international trade "per capita" of each country;
(e) That of the percentage of the geographical concentration of international trade of every country; and
(f) That of the tonnage of the respective merchant marines.

4. Before deciding between the weighted and the equalizing vote, the statistical experts of the Conference should be entrusted with the composition of tables based upon each of said indexes and in the conjunction of all or part of them.

5. The Cuban delegation will present, as soon as it is finished, an analysis of the various indexes and the reasons that justify the proposition it is making.

B. Amendments Relating to the Whole of Article 72

1. The delegations of Argentina, Bolivia, Pakistan and Uruguay suggest that alternatives B and C should be deleted.

2. The delegation of the Kingdom of the Netherlands proposes that Article 72 should read as follows:

"1. Each Member of the Organization shall have one vote in the Conference.

"2. Except as otherwise provided in the Charter, decisions of the Conference shall be taken by a majority of the Members present and voting, provided that a Member may request a second vote if the number of votes cast is less than half of the Members of the Organization. The decision reached on the second vote shall be final whether or not the majority of votes comprises more than half of the Members of the Organization."

(At first reading thirty-five delegations supported Alternative A. The Netherlands amendment to paragraph 2 will be discussed further on second reading.)
Article 73 - Sessions, Procedure and Officers

Paragraph 1
1. The delegation of Mexico proposes to amend paragraph 1 as follows:

"1. The Conference shall meet at the seat of the Organization unless the Executive Board in exceptional circumstances decide otherwise in regular annual sessions and .......... Members."

(The following provisional draft was accepted at first reading: "The Conference shall meet at the seat of the Organization unless, in exceptional circumstances, it decides otherwise in ......")

2. The delegation of Peru suggests the following amendment to paragraph 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 \( \frac{2}{3} \) majority of the Members."

(At first reading it was agreed to make this proposal an alternative to the original text.)

Article 74 - Powers and Duties

A. Notes
1. The delegation of Chile reserved its position at the Preparatory Committee regarding the first sentence of paragraph 3 insofar as it relates to Article 15.
2. The delegation of Canada reserved its position on the proviso to paragraph 6.

B. Amendments Relating to Parts of Article 74

Paragraph 1
The delegation of Mexico proposes to delete from paragraph 1 the words "subject to the provisions of Article 81".

Paragraph 2
1. The delegation of Mexico proposes to amend paragraph 2 as follows:

"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, the Committee for Economic Development or the Tariff Committee by this Charter."

2. The delegation of Pakistan proposes to add the words "by a majority of two-thirds of the Members present and voting" after the word "assign" in the first line of this paragraph.

Paragraph 3
1. The delegation of Italy proposes to amend the proviso to this paragraph /as follows:
as follows: "........ provided that any such decision shall be approved by a [two-thirds] majority of the votes cast and that such majority ........ of the Organization."

2. The delegation of Mexico proposes to delete sub-paragraphs (a) and (b) so that paragraph 3 would read as follows:

"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."

3. The delegation of Uruguay proposes to replace the words "by a two-thirds majority of the votes cast and that such majority shall comprise more than half of the Members of the Organization" by the words "a majority of the Members of the Organization," and to delete the remainder of paragraph 3.

Paragraph 6

The delegation of Mexico proposes to amend paragraph 6 as follows:

"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 by 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,] the contributions shall, however, be on a sliding scale corresponding to the national income of the Members."

Paragraph 7

The delegation of Mexico proposes to delete paragraph 7 as provision is made for the establishment of the seat of the Organization in Article 70-B as proposed by that delegation.

Section C - The Executive Board

Article 75 - Composition of the Executive Board

A. Notes

1. The Preparatory Committee noted that, with reference to paragraph 1 (a) of alternative A, if the Customs Union of Belgium, Luxembourg and the Netherlands as such, should not decide to appoint a representative on the Board, Luxembourg would fall under paragraph 1 (d).

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

/B. Amendments
B. Amendments to the Whole of Article 75

1. The delegation of Pakistan suggests that the text of Article 75 should read as follows:

"1. The Executive Board shall consist of one-third of the total number of Members of the Organization elected at an annual general meeting.

"2. The term of the office of the members shall be one year.

"3. All members of the Executive Board shall be elected by rotation.

"4. No Member shall be eligible for re-election a second time until all Members have had their one term of office.

"5. If at any time any Member ceases to be a Member of the Organization he shall cease to be a member of the Executive Board."

2. The delegation of France proposes that the text of Article 75 should read as follows:

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

"2. Argentina, Brazil, Canada, China, France, India, the United Kingdom, the Union of Soviet Socialist Republics, the United States of America and either Belgium and the Netherlands alternating every three years of the Customs Union of Belgium, Luxembourg and the Netherlands shall each be entitled to designate a representative on the Board.

"3. The other members of the Board shall be elected by the Conference by a vote of a majority of two-thirds.

"4. One-third of the Members provided for by paragraph 3 shall be elected each year for a term of three years. Retiring members will be immediately eligible for re-election. At the first election one-third of the Members provided for by paragraph 3 will be elected for one year, one-third for two years and the remaining third for three years."

3. The delegations of Argentina and Uruguay propose to delete alternatives A and C.

C. Amendments Relating to Parts of Article 75

Paragraph 1 (a) of Alternative A

The delegation of Pakistan proposes to amend sub-paragraph 1 (a) as follows:

"(a) Canada, China, France, India and Pakistan, Union of Soviet Socialist Republics, ........ as a unit,"

The delegation of Pakistan explains this amendment as follows:

"Throughout the Draft Charter "India" is understood to mean "India before partition". Attention is invited to page 59 of the Draft Charter where /India
India is grouped with other Empire countries in Annex A and to the Appendix on page 65 where "India" is understood to mean "India before partition". Since the preparation of the Draft Charter "British India" has been divided into two independent and sovereign Dominions and it is but logical that this amendment is incorporated in Article 75.

Paragraph 2 of Alternative A

The delegation of Mexico proposes to amend paragraph 2 as follows:

"2. The Conference shall make regulations relating to paragraph 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 re-allocating seats [where necessary] when the number of such seats is increased under paragraph 7 of this Article, and other related matters. In making such regulations the Conference shall establish that each of the groups referred to in this paragraph shall appoint its own representatives, by agreement among the countries in the group so as to secure proper rotation and geographical distribution."

Paragraph 3 of Alternative A

The delegation of Mexico proposes the following amendment to paragraph 3:

"3. The Members elected to the Executive Board shall [normally] be elected for terms [of] not exceeding 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."

Paragraph 7 of Alternative A

The delegation of Mexico proposes to amend paragraph 7 as follows:

"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] Members present and voting."

Paragraph 8 of Alternative A

The delegation of Mexico proposes to replace the words "by a majority of the votes cast" in paragraph 8 by the words "by a two-thirds majority of the Members present and voting."

Paragraph 9 of Alternative A

The delegation of Mexico proposes that paragraph 9 should read as follows:

"9. The provisions of this Article shall be subject to review by the Conference every three years [ ]; but for the purpose of effecting amendments there shall be required a two-thirds majority of the votes cast by the Members present and voting."

Paragraph 1 of Alternative B

1. The delegation of Chile proposes to amend this paragraph as follows:

"1. The Executive Board shall consist of the representative of [not more than fifteen
than fifteen of the eighteen Members of the Organization they have been elected."

2. The Cuban delegation declares itself in favour of Alternative B with the following amendments to paragraph 1:

"1. The Executive Board shall consist of not more than fifteen, not less than fifteen nor more than eighteen Members of the Organization, elected by the Conference by the affirmative vote of two-thirds of the Members present and voting, taking in consideration the different geographical economical regions of the world. Half of said Members may be re-elected at the expiration of the term for which they have been elected."

Proposal for Insertion of New Section D bis - Committee for Economic Development

The delegation of Mexico has submitted the following proposal for the insertion of a new section to follow the present Section D:

CONSIDERING that one of the fundamental objectives of the International Trade Organization is to promote the economic development of Member countries, providing them for this purpose with the necessary means and facilities;

CONSIDERING that to facilitate the achievement of this purpose it would be most useful to have, within the ORGANIZATION, a permanent COMMITTEE (such as the Tariff Committee), the establishment of which was proposed during the first session of the Preparatory Committee in London (document E/PC/T/33, Part II, Chapter VI, Section G, 7), a decision on the matter being temporarily postponed;

CONSIDERING, finally, that the reasons which might justify the elimination of the Commissions on Procedure, Commercial Policy, Business Practices and Commodities, which were included in both the United States Draft and the London and New York Drafts, would not have the same weight in the case of a commission concerned with one of the primary objectives, and not merely the instruments of the Organization,

The delegation of Mexico proposes:

the addition to Chapter VII of the Draft Charter of a Section to be placed after the present Section D, the text of which might be as follows:

Section D bis - Committee for Economic Development

Article 80 bis - Committee for Economic Development

1. A Committee for Economic Development shall be established and shall be responsible for activities directed toward the achievement of the objectives of the Organization set forth in paragraphs 1-3 of Article 3 of this Charter and, in particular:

/(a) It shall
(a) It shall perform the functions envisaged in paragraph 2 of Article 10 of this Charter.

(b) When any request for economic assistance submitted by a Member of the International Trade Organization of the International Bank for Reconstruction and Development or any other inter-governmental organization has been rejected, or if no decision has been given within a reasonable period of time, the Committee for Economic Development shall, upon the request of the Member and subject to previous consideration and approval, support the request.

(c) It shall take action, upon the request of any Member, to obtain for the Member the necessary facilities for its economic development referred to in paragraph 1 of Article 11.

(d) It shall protect the interests of Members wishing to develop their economies:

(i) by acting, with due dispatch, to obtain approval of measures for the protection of the industry or agriculture of such Members taken in conformity with Article 13 of this Charter;

NOTE: The delegation of Mexico has submitted a draft amendment to Article 13.

(ii) by applying to the appropriate organs on behalf of a Member who so requests, in order to prevent the economic development of such Member country from being prejudiced by the functions exercised by the Tariff Committee under the powers conferred on it by Article 81 in conjunction with Article 17;

(iii) by arranging that the Tariff Committee, the Executive Board or the Conference, as may be appropriate, remove obstacles or hindrances met with by any Member in respect of its economic development;

(d) The Committee for Economic Development shall make recommendations in the field of taxation designed to stimulate the international flow of capital;

(f) The Committee for Economic Development shall co-ordinate the activities of the International Trade Organization in order to avoid interference and overlapping with the work of other inter-governmental organizations established for similar purposes.

2. The Committee for Economic Development shall consist of fifteen Members of the Organization, appointed for a period of three years by the Conference.
3. Each Member of the Committee shall have one vote.

4. Resolutions shall be adopted by a majority of the Members present and voting.

5. The Committee shall adopt its own Rules of Procedure and staff regulations.

Section E - The Tariff Committee

Article 81 - The Tariff Committee

A. Notes

The Preparatory Committee did not draft texts for paragraphs 3 and 4 of Article 81 which relate to the voting power of each member of the Committee and to the majority of votes required for decisions of the Committee respectively as it considered that these paragraphs would have to be drafted after the article relating to voting in the Conference had been finally determined.

B. Amendments Relating to Parts of Article 81

Paragraph 1

1. The Italian delegation proposes the following amendment to paragraph 1: "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. The Tariff Committee shall avoid that its determinations shall cause an unfair injury to any other Member of the Organization.

"The determinations of the Tariff Committee shall be subject to revision by the International Court of Justice, according to the provisions of Article 91 of this Charter."

2. The delegation of Mexico proposes the following amendment to paragraph 1: "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. The decisions or determinations of the Tariff Committee may be appealed against before the Executive Board and before the Conference."

3. The delegation of Peru proposes to delete the words "and determination".

Paragraph 2

The delegation of Peru proposes to substitute the following paragraph for paragraph 2:

"2. The Tariff Committee shall consist of fifteen Members of the Organization, elected by the Conference by a two-thirds majority of the Members present and voting. Three of the members of the Committee shall..."
shall be replaced each year so that each Member shall be in the Committee for five years."

Paragraph 3
1. The delegation of Cuba suggests the following wording for paragraph 3:
   "3. Each one of the Members represented in the Tariff Committee will have one vote."
2. The delegation of Mexico and Peru suggest the following wording for paragraph 3:
   "3. Each Member of the Tariff Committee shall have one vote."

Paragraph 4
1. The delegation of Cuba suggests the following wording for paragraph 4:
   "4. All the decisions will be taken by a simple majority of votes of the Members present and voting, except that it be otherwise specified in the Charter or agreed by the Conference."
2. The delegation of Mexico suggests the following wording for paragraph 4:
   "4. For any Tariff Committee decision or determination a two-thirds majority of the votes cast by the Members present and voting shall be required."
3. The delegation of Peru suggests the following wording for paragraph 4:
   "4. The decisions of the Committee shall be taken by an affirmative vote of eight members."

Article 83 - The Staff
1. The delegation of Argentina proposes that the first sentence of paragraph 1 should be amended as follows:
   "1. The Director-General shall have authority to appoint Deputy Directors-General shall be appointed by the Executive Board upon the recommendation of the Director-General in accordance with regulations approved by the Conference."
2. The delegation of Peru proposes to substitute the following wording for the first sentence of paragraph 1:
   "1. The Executive Board of the Organization shall appoint one or more Deputy Directors-General, according to the needs of the Organization, and at the proposal of the Director-General."

Article 84 - Relations with other Organizations
The delegation of India proposes to insert a new sub-paragraph (d) reading as follows:
"(d) to transfer to it a part of the functions and resources of the Organization."
The delegation of India gives the following explanation of its amendment:
"Article 8k empowers the ITO to transfer to itself all or a part of the functions and resources of another inter-governmental organization whose purposes and functions lie within the scope of the Charter, by agreement with that Organization. The Indian delegation considers that on the principle of reciprocity this Article should also empower the ITO to transfer any of its own functions to any other inter-governmental organization. This would enable the ITO, while negotiating a relationship agreement with any other inter-governmental organization like the FAO, to consider whether, for the purpose of avoiding duplication certain functions now assigned to the ITO should be wholly or partially entrusted to such organization."

Article 87 - Status of the Organization in the Territory of Members

Paragraph 3

1. The Secretariat suggests that the following wording be substituted for the wording of paragraph 3:

"3. When the Organization has been brought into relationship with the United Nations as provided for in Article 8k, paragraph 1, of the present section, the legal capacity of the Organization and the privileges and immunities provided for in the preceding paragraphs, will be defined by the General Convention on Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations on 21 November 1947, as completed by an annex relating to the International Trade Organization."

2. The reason for this suggestion is the following resolution adopted by the General Assembly at its Second Session:

"WHEREAS the General Assembly on 13 February 1946 adopted a resolution contemplating the unification as far as possible of the privileges and immunities enjoyed by the United Nations and by the Specialized Agencies;

"WHEREAS the General Assembly by a resolution adopted on .............. approved a General Convention on the Privileges and Immunities of the Specialized Agencies and submitted it to the Specialized Agencies for acceptance and to every Member of the United Nations and to every other State Member of one or more of the Specialized Agencies for accession; and

"WHEREAS it is therefore desirable that any Specialized Agency which is hereafter brought into relationship with the United Nations in accordance with Article 63 of the Charter should derive its privileges and immunities exclusively from the said General Convention with such modifications as may be necessary to meet the particular requirements of that Agency contained in an Annex,

"THE GENERAL ASSEMBLY

/"THEREFORE
"THEREFORE RECOMMENDS that the constitutional instrument of any specialized agency which may hereafter be established should not contain detailed provisions relating to the privileges and immunities to be accorded to, or in connection with, that specialized agency, but should provide that such privileges and immunities shall be governed by the said General Convention modified as may be required;

"RECOMMENDS that any international conference at which the establishment of a specialized agency is considered should prepare a draft of the Annex relating to the proposed agency contemplated in Section 36 of the said General Convention and that, if the agency is established, it should send such draft annex to the Secretary-General of the United Nations with a view to assisting the Economic and Social Council in preparing the draft Annex which it will recommend pursuant to Section 35 of the said General Convention after the agency has been brought into relationship with the United Nations, in conformity with the Charter and of any recommendation of the General Assembly;

"DIRECTS the Secretary-General to transmit a copy of this resolution to the appropriate officer of any conference at which the establishment of a specialized agency is to be considered."

3. The Secretariat may circulate at a later stage a working paper regarding an appropriate annexure to the General Convention on Privileges and Immunities relating to the International Trade Organization.

Article 89 - Contributions

The delegation of Peru proposes to add the following sentence at the end of Article 89; "This authority should be approved by a majority of two-thirds of the votes cast."

Chapter VIII - Settlement of Differences - Interpretation

Notes to the Whole of Chapter VIII

The Preparatory Committee pointed out that a limited time had 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 recommended that this subject should receive early and full re-examination by the World Trade Conference and the drafts contained in its Report were prepared on the assumption that this course would be followed.

Article 89 - Consultation Between Members

A. Amendments Relating to the Whole of Article 89

The delegation of Mexico proposes that Article 89 should be deleted to read as follows:

"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,

(b) the application by another Member of any measure, whether or not it conflicts with the provisions of this Charter,

(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.

B. Amendments Relating to Parts of Article 89

Paragraph (b)

1. The delegation of Colombia proposes the following amendment to paragraph (b):

"(b) the application by another Member of any measure, whether or not it conflicts with the provisions of this Charter,"

2. The delegation of Uruguay proposes to delete the words "or not" in paragraph (b).

Paragraph (c)

The delegations of Colombia and Uruguay propose to delete paragraph (c).

Article 90 - Reference to the Organization

A. Notes

The delegation of the United Kingdom at the Preparatory Committee reserved its position on paragraph 2.

B. Amendments Relating to Parts of Article 90

Paragraph 1

1. The delegations of Colombia and Uruguay propose the deletion of the words "or if it falls within Article 89 (c)" in paragraph 1.

2. The delegation of South Africa proposes the following amendment to the first sentence of paragraph 1:

"1. If the matter is not satisfactorily adjusted within a reasonable time or if it falls within Article 89 (c) it may, if the representations or proposals refer:

(a) to any obligation which a Member has assumed pursuant to Article 12; or

(b) to exceptions
(b) to exceptions which the Organization has granted pursuant to the provisions of Article 13; 14 or 15; or 
(c) to any obligations which a Member has assumed under Chapter IV or Chapter V or to any obligations which a Member has assumed through negotiations with any other Member of Members pursuant to Chapter IV,
be referred to the Executive Board or, with the approval of the Executive Board, directly to the Conference.

3. The delegation of Mexico proposes the following amendments to paragraph 1:
"1. If the matter is not satisfactorily adjusted between the Members within a reasonable time, 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 investigations consult with Members, with the Committees or 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."

Paragraph 2

1. The delegation of the United Kingdom proposes to amend paragraph 2 as follows:
"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 Member and such Members provided that (a) the Members concerned are not more than three in number, and (b) the matter is not one which must under the provisions of the Charter be referred to the Organization for decision."

2. The delegation of Italy proposes the following amendment to paragraph 2:
"2. The Executive Board may refer the matter, with the consent of the Members concerned, at the request of any interested Member, shall submit the matter to arbitration upon such terms as may be agreed between the Board and such Members."

Paragraph 4

The delegation of Mexico proposes to amend the first sentence of paragraph as follows:
"4. If the Conference considers that the circumstances are serious enough to justify such action, it may authorize the Member or Members affected to suspend the application to any other Members"
or Members causing the injury of such obligations or concessions under or pursuant to this Charter as the Conference determines to be appropriate."

Article 91 - Reference to the International Court of Justice

A. Notes

The delegation of Australia reserved at the Preparatory Committee its position on paragraph 2.

B. Amendments Relating to Parts of Article 91

Paragraph 1

1. The delegation of Australia proposes that paragraph 1 be amended as follows:

"1. The Conference or the Executive Board of the Organization 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. The delegation of Australia comments as follows upon its amendment to paragraph 1:

"The Australian delegation considers that to afford the Executive Board, in paragraph 1, the power to obtain advisory opinions from the Court is to afford a far-reaching power to bind the Organization on questions which may never have been considered by the body fully representative of all the Members - namely, the Conference. This is the effect of paragraphs 1 and 5 taken in conjunction.

"The effect of the change suggested by Australia would be to reserve to the Conference the right of seeking advisory opinions, unless the Conference decided, under Article 74, to assign the power to the Executive Board. Thus flexibility would be retained, but the Conference would be able to control the use of this power in the light of experience."

Paragraph 2

1. The delegation of Australia proposes to substitute the following for the present text of paragraph 2:

"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, if any substantially interested Member so requests, be referred to the International Court of Justice for an advisory opinion pursuant to the statute of the International Court of Justice as to whether the Conference was legally competent to adopt the resolution or decision."

/2. The delegation
2. The delegation of Australia comments as follows upon this amendment:

"The suggested amendment to paragraph 2 is intended to ensure that the Conference of the Organization, representing all the Members, retains final authority for the determination of facts and the application of the requirements of the Charter to the facts. In the opinion of the Australian delegation the International Court of Justice is not permitted in such a way as to permit it to make decisions on the economic and commercial issues which are likely to be the subject of dispute. It is intended that any substantially interested Members should be able to ask the Court, through the Organization, whether or not the Charter gives the Organization authority to reach a decision on the question at issue."

3. The delegation of Italy proposes that the following sentence should be added at the end of paragraph 2: "Any concerned Member may present to the International Court of Justice through the Organization or directly any documentation which it considers desirable."

4. In order to make other parts of Article 90 than paragraph 3 subject to review by the International Court of Justice the delegation of Sweden proposes the following wording of paragraph 2:

"2. Any resolution or decision of the Conference under paragraph 3 of Article 90 or decision of the Conference under any other Article of this Charter shall, upon the instance of any substantially interested Member, 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."

4. The delegation of Uruguay proposes to delete the word "substantially" in paragraph 2.

Article 92 - Miscellaneous Provisions

The delegations of Argentina and Peru propose to amend paragraph 1 as follows:

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

Chapter IX
Chapter IX - General Provisions

Article 93 - Relations with Non-Members

A. Notes

1. The Preparatory Committee transmitted these three texts to the World Conference, without expressing 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.

2. 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.

3. In this connection the Preparatory Committee called 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.

B. Amendments Relating to the Whole of Article 93

1. The delegation of Australia proposes that Article 93 should read as follows:

"1. Nothing in this Charter shall preclude any Member from concluding or maintaining commercial treaties or maintaining economic relations with non-Members provided that such treaties and economic relationships shall be consistent with achievement of the purpose and objectives of the Organization and shall in no case cause substantial injury to the interests of Members."

"2. As soon as practicable after the coming into force of this Charter, the Organization shall institute a study of the commercial treaties and economic relations between Members and non-Members and arrange for a report to be submitted to the Conference at its second annual session on the results of this study which will include for the consideration of the Conference such draft Article or Articles as may be considered desirable to govern the relations of Members with non-Members.

3. Any
"3. Any draft Articles submitted for the consideration of the Conference in terms of paragraph 2 above shall be dealt with in accordance with Article 95."

2. The delegation of Belgium proposes that Article 93 should read as follows:

"1. No Member shall seek preferential or exclusive advantages for its trade with a non-Member, nor shall it grant any such advantages to a non-Member.

2. A Member may nevertheless continue to grant to a non-Member the treatment it was granting in fact, or in accordance with contractual engagements, at the date on which this Charter became effective for the said Member. The treatment granted by the Member to the non-Member may comprise advantages identical or equivalent to those under this Charter or resulting from the acceptance by the Member of the General Agreement on Tariffs and Trade.

3. If it so desires, a Member may in fact or in accordance with the terms of an agreement, grant to a non-Member any one of the advantages resulting from Chapter IV of this Charter, or any one of the tariff concessions accorded by the said Member under the General Agreement on Tariffs and Trade or following negotiations under Article 17 of this Charter, being advantages or concessions which the non-Member did not previously enjoy. The Member proposing to take action as above, shall inform the Organization which shall in turn inform the other Members.

4. Any Member may at any time appeal to the Organization in order to obtain that advantages being granted by another Member, or proposed to be granted, to a non-Member be withdrawn if such Member considers that its interests are unduly injured or that the purposes of the Organization are being impeded. A Member may also request the Organization to consider whether any advantage granted by a non-Member to a Member is not an exclusive or preferential advantage the benefit of which should either be extended to all Members of the Organization or be refused by the said Member.

5. In deciding whether it should or should not approve the action of a Member against which an appeal has been presented in accordance with the provisions of paragraph 4 of this Article, the Organization shall have regard to the general purpose and objectives of the present Charter as well as to the legitimate interests of the various interested Members.

6. Within
6. Within sixty days of its receipt of written notification of a decision by the Organization disapproving an advantage or an agreement to which the provisions of paragraph 4 of this Article apply, a Member shall inform the Organization as to whether it accepts the said decision and in the affirmative the said Member shall take all necessary steps. If the Member is unable to comply with the said decision, it shall have to give notice in writing to the Director-General of its withdrawal; such withdrawal becoming effective sixty days after such notice has been given.

7. 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 or in respect of which they may claim the benefit of the economic provisions of the said peace treaties.

The delegation of Belgium makes the following remarks upon its proposal:

1. The three texts which are submitted for examination by the countries participating in the Conference of the United Nations on Trade and Employment show that there exist divergent views which will be extremely difficult to conciliate. It is therefore urgent that a common ground for agreement should be found.

2. A reasonable supposition is that, in the early days of the Organization, non-Members will be fairly numerous and that some of them will have appreciable economic importance.

3. It therefore appears that relations between Members and non-Members should be governed so as to clearly reserve the right to the advantages under the Charter to Members only, but without setting up an impassable barrier between the Organization and non-Members by refusing to the latter the benefit of the said advantage, benefit which would not create a right to them.

4. The text proposed by the Belgian Government for Article 93 of the Charter of the International Trade Organization contains, for the above reasons, provisions which determine that Members may, if they so desire, grant non-Members the benefit of advantages under the Charter, or similar to those under the Charter, as long as this favour does not cause prejudice to the interests of the Organization or of other Members.

5. A distinction is made between the advantages which a Member is already granting at the time of entry into force of the Charter and the advantages which such Member might propose to grant at a later date.

6. The fact that Members, which consider that their interests are
affected by an advantage granted or about to be granted to a non-Member, may appeal to the Organization, confers a precarious character on the benefits conceded to a non-Member which can but incite it to join the Organization.

7. A note to Article 93 could, if necessary, make clear that, for the purposes of this Article, the terms "non-Member" apply to any State not being a Member of the Organization, whether or not it is eligible for membership.

4. The delegation of Pakistan proposes to delete Alternatives B and C.

C. Amendments Relating to Parts of Article 93

The delegation of Argentina states that Alternatives B and C are unacceptable to it but Alternative A is acceptable subject to the deletion of the proviso to paragraph 1 and paragraphs 2 and 3.

Article 94 - General Exceptions

A. Notes

The delegation of Australia makes the following comment upon Article 94: "1. It appears to the delegation of Australia that, in view of the importance of paragraph (b) (ii) of Article 94 the intention of the Preparatory Committee in this regard should be made perfectly clear. "2. Doubts are felt as to whether the words "for the purpose of supplying a military establishment" are sufficiently explicit without interpretative comment. These words, it is considered, are capable of being interpreted as applying merely to a military establishment maintained or controlled by a Member country imposing a restriction on exports. It may, however, be necessary to consider whether a particular product or products are intended for use by a military establishment maintained or controlled by another country. For example, before the last war Australia found it necessary to prohibit the export of iron ore to a particular foreign country for the reason that it was being used for military purposes and that the Australian product might be used in military action against Australia. Events proved that this action was fully justified. It is therefore suggested that this Conference should approve the interpretation of 94 (b) (ii) that the words "a military establishment" include such establishments maintained by any other country as well as those maintained by the member itself and that this interpretation should be included in the records of the Conference.

"3. Again, in the course of the Geneva Conference the delegation of Australia questioned whether the wording of Article 94 (b) (ii) could be interpreted
be interpreted as applying to any goods and materials and in particular raw materials used for the production of goods for military purposes. It was agreed that this was the intention of the provision and the inclusion of the words "directly or indirectly" was accepted by the Conference. This amendment partly met the Australian delegation's viewpoint, but a reservation was maintained on this sub-paragraph pending further consideration. It is now suggested that this Conference should endorse the interpretation approved at Geneva, that this sub-paragraph covers raw materials such as iron ore (the example mentioned above) or any other goods or materials used directly or indirectly for military purposes and that this endorsement should be included in the records.

4. If the suggestions embodied in paragraphs 2 and 3 above are approved and suitably recorded the delegation of Australia will be in a position to withdraw its reservation to Article 94 (b) (11).

B. Amendments Relating to the Whole of Article 94

1. The delegation of India proposes to add a new paragraph at the end of Article 94 reading as follows:

"2. Taking into account the exceptional circumstances arising out of the establishment of India and Pakistan as independent states and recognizing the fact that they have long constituted an economic unit, the Members agree that the provisions of the Charter shall not prevent the two countries from entering into special arrangements with respect to the trade between them."

2. The delegation of India explains that its proposed amendment has been adapted from the corresponding provision in Article XXIV of the General Agreement on Tariffs and Trade.

3. The delegation of Costa Rica proposes to add the following two sub-paragraphs at the end of Article 94:

"(d) to prevent any Member from readjusting its customs tariffs, where such duties are based on the weight, quantity or measurement of articles imported and not on their value, and when such readjustment is made necessary by a legal devaluation of the currency of the importer.

(e) to oblige any Member to abolish existing monopolies established in favour of the State or of its dependent organs, or legislative provisions granting the State the sole right to purchase, sell, produce or distribute certain articles or to provide certain services."

4. The delegation of India proposes to add a new sub-paragraph (c) between the present sub-paragraphs (b) and (c), reading as follows:

"(c) to require
"(c) to require any Member to extend the benefits of the Charter to any other Member with which it is unable, without detriment to its essential interests, to maintain trade relations, or....."

The delegation of India explains that this amendment is intended to cover the special situation existing between India and South Africa.

C. Amendments Relating to Parts of Article 94

The delegation of Egypt proposes to insert the phrase "including severance of diplomatic relations or existence of state of belligerency" after the word "relations" in sub-division 3 of paragraph (b).

Article 95 - Amendments

The delegation of Mexico proposes to amend paragraph 2 of Article 95 as follows:

"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, and such withdrawal shall be effective upon the expiration of six months sixty days from the day on which written notice of such withdrawal is received by the Director-General."

Article 96 - Review of the Charter

1. The delegation of India proposes the following amendment:

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

The delegation of India explains that it considers the period of ten years before a review is made of the Charter to be too long.

2. The delegation of Peru proposes to add the following sentence at the end of Article 96:

"This stipulation does not exclude the right of amending any of the provisions of the Charter by means of the procedure indicated in Article 95."

/3. The delegation
3. The delegation of Sweden proposes to delete the whole of Article 96 as it considers that should a general review of the Charter prove necessary, the Conference may provide therefor without any specific rule, and choose the most suitable time for such purpose.

4. The International Chamber of Commerce has submitted a written statement on this Article (see document E/CONF.2/8 paragraph 88).

Article 98 - Entry into Force and Registration

Paragraph 1

The delegation of Burma proposes to insert the words "and each separate customs territory invited to the United Nations Conference on Trade and Employment" between the words "State" and "accepting" in paragraph 1.

Paragraph 2

1. The delegation of Uruguay proposes to replace the words "shall reach twenty" by the words "shall reach a two-thirds majority" in the first sentence of paragraph 2 and to delete entirely the second and third sentences of the paragraph.

2. The delegation of Mexico proposes to amend paragraph 2 as follows:

"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/ at least half of the number of countries which were invited to, and took part in, that Conference, 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.".

Article 99 - Territorial Application

A. Amendments Relating to the Whole of Article 99

The United States delegation intends to introduce an amendment designed to bring Germany and Japan, while under military occupation, within the /scope of the
scope of the Charter and to define the methods and conditions for doing so.

B. Amendments Relating to Parts of Article 99

The delegation of Mexico proposes to amend paragraph 3 of Article 99 as follows:

"3. Each Member shall take [such reasonable] all necessary 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 and shall be responsible for any act or omission to act contrary to the provisions of this Charter on the part of any such governments or authorities."

Proposal to Insert a New Article 100

The delegation of Chile proposes to insert a new Article between the present Articles 99 and 100, reading as follows:

"None of the provisions of the present Charter shall prevent any action which may be undertaken by regional organs or bodies within the scope of their authority and the sphere of their activity, for effecting or facilitating the achievement on the part of their Members, of the objects of the Charter, provided that such action does not obstruct or prejudice action on worldwide or general lines undertaken by the Organization."

Article 100 - Deposit of Texts

The delegation of Costa Rica proposes to replace the first word of Article 100 by the following phrase: "This document shall be known officially as the Havana Charter, and the ........."
existing manpower even through its transfer between different countries, to increase the production, consumption and exchange of goods, and thus to contribute to a balanced and expanding world economy."

**Paragraph 2**

1. The delegation of Ecuador proposes to insert the following at the end of paragraph 2:

"...... to ensure that prices on the international market are adjusted in an equitable manner so that standards of living in countries primarily producers of raw materials are fairly related to standards of living in countries primarily producers of manufactured goods."

2. The delegation of Norway proposes to add the words "on request" before the words "to assist" in paragraph 2.

**Paragraph 4**

The delegation of Uruguay proposes to amend paragraph 4 as follows:

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

**Final Paragraph**

The delegation of Norway proposes that in the final paragraph the phrase "International Trade Organization" should be changed to read "International Trade and Employment Organization".

**B. Amendments Relating to the Whole of Article 1**

1. The delegation of France proposed the insertion of a new paragraph between the present paragraphs 4 and 5 of Article 1, reading as follows:

"To achieve progressively greater freedom of trade in increasingly extensive economic zones by promoting the maintenance, establishment and development of economic units wider in character than those determined by political frontiers between neighbouring countries or countries which are closely related economically."

2. The delegation of Argentina proposes the insertion of a new paragraph between the present paragraphs 5 and 6 of Article 1, reading as follows:

6. To further the recognition of the worker's right:

(a) to work;
(b) to receive a fair wage;
(c) to receive training;
(d) to proper working conditions;
(e) to conditions not injurious to health;
(f) to comfort and well-being;
(g) to social security;
(h) to family protection;
(i) to economic advancement, and
(j) to defend his professional interests."