SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE 
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT 

Note by the Secretariat

The attached letter and enclosure have been received from the Representative of the International Cooperative Alliance supplementing the comments previously communicated (E/PC/T/80). The present comments relate to Chapter VII.

The Representative of the International Cooperative Alliance indicates that his organization is preparing further comments relating to Chapters I - IV and Chapter VIII and that those comments will be submitted within the next few days.

In accordance with the established procedure, the attached paper is drawn to the attention of all Delegations and particularly to the members of the Consultative Committee (Non-Governmental Organizations).

To

The Executive Secretary of the Preparatory Committee of the Conference on Trade and Employment of the United Nations,

Sir,

With reference to my previous letter accompanying the comments of the I.C.A. on Chapter VI of the Draft Charter I have the honour of submitting to you the comments of the Alliance on Chapter VII. Further comments, on Chapters I-IV and Chapter VIII, are under preparation and will be handed in during the next days.

Very sincerely yours

(signed) THORSTEN ODHE

In the original Proposals for an expansion of international trade and employment, elaborated by experts of the Government of the United States of America, it was very strongly emphasised that the inter-governmental commodity agreements contemplated by the Proposals should be considered in principle as emergency measures. The main purpose of such agreements should be not to stabilise the branch of production concerned but to lay down a programme of re-adjustment to the changes in the market situation, limited to that period during which the reorientation of productive life may be carried out without too great a strain upon producers. It was also pointed out that changes in different branches of production, resulting in the lowering of prices and the amassing of burdensome surpluses, are inevitable in every progressive national economy. The policy pursued by Governments should not aim at preventing changes of this nature, which in many instances might be regarded as important stages of a process by which productive life will be enabled to satisfy the changing needs of the consumers. Only when the changes take place too rapidly and cause serious dislocations to the mass of small producers it may seem justified to try to find a remedy by international agreements regulating the production or export of the commodity in question. Under all circumstances the first measure to be contemplated in trying to overcome the effects of burdensome surpluses on production and price should be to propose steps aiming at an increase in consumption; only when such measures have failed or are likely to fail should the establishment of a regulatory agreement be made the subject of an official study as proposed in the Draft Charter.

It was also stressed by the Proposals that any agreement between Governments with a view to introducing restrictions on the production or marketing of a commodity (which is very much the same as international cartels or private agreements do which aim at restricting the production of certain raw materials) is likely to be utilised for obtaining unfair advantages at the cost of the consumers. The Proposals, therefore, emphasised the importance of establishing sufficient safeguards for the consumers in all such agreements; as well as the need for widespread publicity concerning their nature and working, in order to give public opinion throughout the world an opportunity to assure that such agreements will be effected in the interest of the public wellbeing.
As formulated in the provisions of the Draft Charter, the Proposals for inter-governmental commodity agreements seem to have taken proper advantage of the original suggestions, as far as the general spirit and basic arrangements of its provisions are concerned. Chapter VII provides for inter-governmental agreements of the type contemplated by the Proposals with a view to regulating production, price, distribution and consumption, in order to assist primary-producing countries during depressions caused by special circumstances. It is emphasised that the special difficulties existing in the case of primary products are different in character from those which manufactured goods generally present, as burdensome surpluses of primary products cause conditions which are generally characterised by sudden price falls and ensuing serious hardship to small producers that cannot be corrected by market forces alone. The aim of a commodity agreement should be to alleviate the effects of a depression without seeking to conserve the conditions of production and marketing as they were when the slump commenced. It should consequently only serve as a buffer agreement for a restricted period (limited to five years) and its ultimate purpose should be an economic adjustment designed to promote the expansion of consumption or a shift of man-power out of over-expanded branches of production to new productive occupations.

Generally it may thus be stated that inter-governmental commodity agreements, having such aims and being so constructed as to serve the purpose of attaining a state of equilibrium in a certain field of production during a period of transition, should not come into conflict with the general objectives of the Charter which are to promote an expansion in production and in international trade.

The International Co-operative Alliance (I.C.A.), which to an increasing extent unites the co-operative associations of small industrial and agricultural producers, is well aware of the fact that inter-governmental agreements of this kind may be a very useful instrument in remedying emergency situations, mitigating ensuing protracted depressions, particularly on raw materials and foodstuffs markets, and creating and restoring healthy economic conditions for these very large groups of producers whose interests carry a decisive weight in internal politics in many countries, and might otherwise be safeguarded by restrictive national measures of economic policy likely to impair the general purposes of the Organisation. International action of this kind, carefully planned and administered, is the more important and in conformity with the general aims of the Charter as there is a constant danger of under-employment or latent unemployment in under-developed areas demanding appropriate assistance in the shape of credits for investments, aid for development of the technical potential of the areas, and the like. The I.C.A. is also convinced that stabilising measures on an international scale, as contemplated in Chapter VII, may usefully contribute to promoting the organisation of small producers in Co-operative Societies, having as their principal aim the further technical and organisational rationalisation of production, as well as the efficient marketing of the products with a view to reducing the margin of costs between the producer and the ultimate consumer.
To ensure that the commodity agreements function in this spirit, the Charter provides a number of guarantees, mainly with regard to procedure. Thus a request for the assistance of the Organisation in establishing a commodity agreement shall only be considered after an "investigation at the root causes" of the problem; an agreement, when concluded, shall be administered by a Commodity Council appointed by the I.T.O. and responsible to the Organisation; and representatives of consumer countries shall be invited, together with those of the producing countries, to the Conference, where an agreement is to be negotiated, and to the Council administering it, such representatives being entitled in important questions to a voice equal to that of the producing or exporting countries.

No doubt these safeguards with regard to procedural matters are essential, and are bound to be valuable when the time comes for the provisions of Chapter VII to be implemented. Their main purpose is to prevent monopolistic exploitation of the consumers, intentional or un-intentional, by the primary producing countries by means of inter-governmental commodity agreements.

It was pointed out in the original proposals submitted by the American Government that all agreements of an international scope intended to function by regulating the supply of a commodity - by restricting or controlling production and marketing for export - are bound to have monopolistic effects. This is implied in Chapter VI of the Draft Charter, which expressly exempts inter-governmental commodity agreements concluded in conformity with Chapter VII from the provisions regarding control over combinations in restraint of trade. It is, therefore, essential to incorporate provisions which strike a fair balance between the interests of the producers and the consumers.

In the opinion of the I.C.A., the question whether the safeguards for the consumers' interests as regards procedural matters in this Chapter will be sufficiently effective - particularly in preventing the survival of certain agreements of this kind after their official termination as the core of private international monopolistic combinations - should be submitted to a closer study by the Preparatory Committee before the provisions of this Chapter are finally drafted. This could be done, in the opinion of the I.C.A., by defining more closely (with a view to limiting the agreements to commodities subject to a particular inelasticity of demand and to market situations of a qualified emergency character) those commodities and market situations calling for action by the Organisation; and by deleting from the Draft any reference to the objective of the agreements being to achieve stable and remunerative prices, as such a formulation might easily lead to encouraging potential monopolistic tendencies in producers' countries. In this connection the I.C.A. considers it of importance that the sentence in square brackets in Article 47(c) should be deleted ("in order to achieve a reasonable degree of stability on the basis of remunerative prices to efficient producers without unfairness to consumers") since the objective of achieving remunerative prices is subordinate to the shifting of man-power and other resources from over-expanded branches of production into new and productive occupations. As a matter of principle, such agreements should provide, where practicable, for measures designed to expand world consumption of the commodity. (Article 51(f)).
The I.C.A. desires to make another positive proposal for the final drafting of the Charter, relating to the participation of non-governmental agencies in the procedures prescribed particularly in Articles 48, 49, 54 and 55. It is important that the material submitted to the Study Groups which have to make the recommendations for the establishment of a commodity agreement, as well as to the Commodity Conferences which have to make the final decisions, should not only be as exhaustive as possible but should represent as many views as possible. Non-governmental agencies representing the collective organisations of consumers and producers should be able to make a valuable contribution in this respect. In order to establish a detailed procedure for the consultation of the organisations of consumers (and producers) in matters connected with Article 48, it seems only necessary to insert at the end of the second paragraph of this Article the following words: "and non-governmental organisations representing producers and consumers", so that the sentence as a whole would read: "Non-members and non-governmental organisations representing producers and consumers may also be invited." A similar insertion should be made at the end of the second paragraph of Article 49, the last part of which would then read: "and non-members as well as non-governmental organisations representing producers and consumers having a similar interest may be invited by the Organisation to participate." If these additions are made, the rights of the non-governmental organisations in the preparatory stages of inter-governmental commodity agreements will be as expressly safeguarded as those of inter-governmental organisations.

The proper functioning of the commodity agreements will mainly depend on the Commodity Councils as the governing bodies of the different agreements. In the Commodity Councils the counterbalancing influence of the consumers will be exerted by the consumers' countries which in all substantive matters shall have together a voice equal to that of the producers' countries. However, situations may arise where, in the case of various consumer countries and various commodities, a conflict may emerge between the State interests of a country represented in the Council and the direct interests of the individual consumers in that country and generally. For such cases, and generally to facilitate the direct representation of the interests of the consumers, it would be fair, as well as advantageous, to the attainment of the aim of a continuous and exhaustive consultation between the non-governmental organisations and the I.T.O., to stipulate the right of the I.T.O. to invite also non-governmental organisations with a substantial interest in the safeguarding of consumers' rights and interests to have a permanent seat in a Commodity Council. Technically, the granting of this right calls for a slight change of the wording of Article 54, paragraph 3, which it is suggested should read as follows: "The Organisation shall be entitled to appoint a non-voting representative to each Commodity Council and to invite any competent inter-governmental organisation or any non-governmental organisation representing the interests of the consumers to nominate a non-voting representative for appointment to a Commodity Council."
Finally, the I.C.A. desires to draw the attention of the Pre-
paratory Committee to another important question. In the course
of implementing the international agreements affecting production
and distribution (exports and imports) of raw materials, circum-
stances may arise which, if due measures of precaution are not
taken, may interfere with the right of free access for all nations
on equal terms to the natural resources of the earth, as expressed
in Article IV of the Atlantic Declaration. A Paper read before
the Congress of the I.C.A. at Zurich last year, which found the
approval of Congress, refers to the question of free access to
raw materials as follows:—

"From the consumers' viewpoint it is absolutely
necessary that raw materials should be made available to
the whole of humanity on equal terms. No valid reason can
be constructed for regarding every raw material as the
monopoly of the State within whose boundaries it happens
to exist or can be produced. On the contrary, raw materi-
als should be the first thing after armaments to be placed
under the control of the United Nations; and the model for
their exploitation should be the principles applied within
the Co-operative Movement, viz., equal conditions for all,
and the right of every enterprise to buy as much as it con-
siders it can utilise."

Stipulations in other Chapters of the Charter provide for
the exchange of goods, raw materials included, among the member
countries in a non-discriminatory manner. These provisions, how-
ever, may be seriously impaired by restrictive marketing operations
undertaken by private organisations of a monopolistic character
taking an unfair advantage of inter-governmental commodity agree-
ments, if private restrictive agreements of an international
character are allowed to carry on their activities in the field of
certain commodities after such inter-governmental agreements have
been carried into effect. At present, to take an example, the
Chilean producers of nitrate seem to have concluded agreements
limiting the number of firms which may purchase and import in each
country, and in some countries Co-operative Wholesales and other
Co-operative Organisations are excluded. It is evident that such
agreements, if allowed to remain within the basic framework of the
inter-governmental commodity agreements, might encroach upon the
rights of individual countries of free access to raw materials
(e.g., in the case of private restrictive international agreements
which make the market of an individual country the exclusive proper-
ity of supplying firms in other countries) and foil the efforts of
the respective Commodity Councils to prevent monopolistic price-
fixing.

In view of this the I.C.A. submits to the consideration of
the Conference, whether it might not be desirable to insert some
specific provisions in Chapter VII calling for a previous investi-
gation of monopolistic combinations in all cases where inter-govern-
mental commodity agreements are proposed to be established, and
also making it obligatory, under all circumstances, to the exporters
in the producing countries to sell to all buyers in all countries
willing to pay the current market price and to fulfil other
reasonable conditions of the seller. If the regulation of exports
is to be carried into effect by means of quotas for the different
importing countries, it will seem appropriate to stipulate that,
in determining the quota for an individual country, all importers
willing to pay the market price shall be entitled to share that
quota, and that in no case shall private exporters in the selling
country have the right to decide upon the distribution of the
quota quantities among buyers.