Report of the Drafting Committee
of the
Preparatory Committee
of the
United Nations Conference
on Trade and Employment

(20 January to 25 February 1947)

Lake Success
New York
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PART I

Introduction

1. At its First Session⁠¹ held in London in October and November 1946, the Preparatory Committee adopted a resolution establishing a Drafting Committee. The resolution, after stating that it was desirable that further drafting be done on the basis of the work carried out at the First Session of the Preparatory Committee and before the commencement of the Second Session, directed the Drafting Committee, composed of representatives of the members of the Preparatory Committee, to meet in New York from 20 January 1947 and to complete its preparation of a report for consideration at the Second Session no later than 28 February 1947. It was resolved that it would be the function of the Drafting Committee to prepare a Draft Charter⁡ or Articles of Agreement based upon the Report and other documents of the First Session, editing for clarity and consistency the portions of the text on which the Preparatory Committee came to a substantial identity of views, preparing alternative drafts of those portions on which there remained a division of general views and preparing suggested drafts covering such uncompleted portions as were referred to it by the Preparatory Committee, together with such explanatory notes and commentaries as the Drafting Committee might consider desirable and useful.

2. The Drafting Committee was convened at the temporary headquarters of the United Nations, Lake Success, New York, on 20 January 1947 and concluded its work on 25 February 1947, having held a total of twenty-nine meetings. Representatives from all the members of the Preparatory Committee attended, with the exception of the Union of Soviet Socialist Republics which stated that it was not in a position to take part in the work of the Drafting Committee. Colombia and Mexico sent representatives to observe the proceedings, in which the representatives of the Food and Agriculture Organization, the International Bank for Reconstruction and Development, the International Labour Organization and the International Monetary Fund actively participated.

3. The Drafting Committee availed itself of the Rules of Procedure of the First Session and worked according to the following plan. An examination of the text of each Article of the Charter drafted at the First Session was first made in plenary session together with any amendments introduced by delegates or suggested by the Secretariat. During this examination a new text of each Article which had been amended was established and reproduced by the Secretariat for second reading a few days later. After each Article had been examined a second time in plenary session, the text then agreed was referred to a Legal Drafting Sub-Committee. Finally all texts were again, examined when the draft report was approved.

4. The procedure outlined above was followed with most of the Articles of the Charter. However, to deal with Articles for which no detailed and generally agreed text had been established at the First Session, the Drafting Committee decided to constitute at an early stage of its work sub-committees to prepare texts for examination by the Drafting Committee at a later stage. Thus, a Technical Sub-Committee to prepare drafts of Articles 15 to 23 inclusive and Article 37 was set up and an Administrative Sub-Committee which worked upon Articles 1, 2, 64, 68 and 72 to 77 inclusive. Apart from preparing a draft Charter, the Drafting Committee was charged with providing a more detailed draft of the General Agreement on Tariffs and Trade, based upon the outline drafted at the First Session. For this purpose a Sub-Committee on Tariff Procedures was established. Although the sub-committees were of restricted membership, all delegates to the Drafting Committee were accorded the right to participate in the proceedings of the sub-committees at any time and frequently availed themselves of this facility. In addition, in a number of cases, the Drafting Committee established ad hoc sub-committees to deal with specific points.

5. In view of the technical and detailed nature of the work performed by the Drafting Committee, all of its meetings were held in private. The public, however, was kept informed of the work being done by means of press releases arranged by the Secretariat, which gave a press conference at the close of the meeting. It was agreed that the report of the Drafting Committee should be classified as a restricted document, not for publication until such time as the Preparatory Committee itself might decide otherwise.

6. The officials of the Committees and Sub-Committees were:

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¹ Whenever the words First Session or Second Session are mentioned the First or Second Session of the Preparatory Committee is understood.

² Whenever the word "Charter" standing alone is used in this Report, it refers to the Charter as drafted by the Drafting Committee; when other texts or the Charter of the United Nations are referred to, the full title is given.

By retaining the title of "Charter" the Drafting Committee did not intend to indicate that it approved or disapproved of the use of this term. This is a point which may need to be considered at a later stage.
Drafting Committee

Chairman: Mr. Erik Colban (Norway).
Vice-Chairman: Mr. B. N. Adarkar (India).

Administrative Sub-Committee
Chairman: Dr. G. Alamilla (Cuba).

Legal Drafting Sub-Committee
Chairman: Mr. A. Kojeve (France).

Tariff Procedures Sub-Committee
Chairman: Mr. B. N. Adarkar (India).

Technical Sub-Committee
Chairman: Mr. R. J. Shackle (United Kingdom).

7. Purely editing changes are normally not mentioned in the commentary contained in Part II of this Report. Square brackets have been used to enclose wording, the adoption of which is left for future consideration. Reservations made at the First Session and maintained at the meetings of the Drafting Committee are recorded in the commentary.

8. Although the terms of reference of the Drafting Committee did not require it to discuss arrangements for and procedures at the second session, it was felt that the Committee provided a convenient ground for further exchanges of views on this question between governments. Accordingly, a discussion of arrangements and procedures was carried out and informal agreements reached which it is hoped will materially assist the members of the Preparatory Committee in making their plans for the Second Session.
PART II
Draft Charter and Commentary

CHAPTER I. PURPOSES

Article 1
General Purposes

In pursuance of the determination of the United Nations to create conditions of economic and social progress essential to world peace, the States party to this Charter hereby establish an International Trade Organization through which they will work for the fulfilment of the purposes set out hereunder:

1. To promote national and international action:
   (a) Designed to realize the objectives set forth in the Charter of the United Nations and particularly in Article 55 (a) thereof, namely, higher standards of living, full employment, and conditions of economic and social progress and development;
   (b) For the expansion of the production, exchange and consumption of goods, for the achievement and maintenance in all countries of high and steadily rising levels of effective demand and real income, for the development of the economic resources of the world, and for the reduction of tariffs and other trade barriers and the elimination of all forms of discriminatory treatment in international commerce;
   (c) To avoid excessive fluctuations in world trade and contribute to a balanced and expanding world economy.

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

3. To encourage and assist the industrial and general economic development of Member countries, particularly of those still in the early stages of industrial development.

4. To facilitate the solution of problems in the field of international trade, employment and economic development through consultation and collaboration among Members.

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

Paragraph 1 (b)

A number of delegates favoured the term "stable" instead of "steadily rising".
CHAPTER II. MEMBERSHIP

Article 2

1. The original Members of the Organization shall be those countries represented at the United Nations Conference on Trade and Employment whose Governments accept this charter by 194 or, in the event that this charter has not entered into force by that date, those countries whose Governments agree to bring this charter into force pursuant to the proviso to paragraph 3 of Article 88.

2. Subject to the approval of the Conference, membership in the Organization shall be open to other countries whose Governments accept this charter.

3. The Conference shall establish procedures which will open a membership in the Organization to the United Nations on behalf of the Trust Territories for which the United Nations is the administering authority.
CHAPTER III. EMPLOYMENT, EFFECTIVE DEMAND AND ECONOMIC ACTIVITY

Article 3

Importance of Employment in Relation to the Purposes 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 high and steadily rising effective demand for goods and services is not of domestic concern alone, but is a necessary condition for the expansion of international trade, for the well-being of other countries, and in general for the realization of the purposes of this Charter.

2. Members agree that, while the achievement and maintenance of effective demand and employment must depend primarily on domestic measures, such measures should be assisted by the regular exchange of information and views among Members and, so far as possible, should be supplemented by international action sponsored by the Economic and Social Council of the United Nations and carried out in collaboration with the appropriate inter-governmental organizations acting within their respective spheres and consistently with the terms and purposes of their basic instruments.

Article 4

Maintenance of Domestic Employment

1. Each Member shall take action designed to achieve and maintain full and productive employment and high and stable levels of effective demand within its own jurisdiction through measures appropriate to its political, economic and social institutions.

2. Measures to sustain employment and demand shall be consistent with the other purposes and provisions of this charter and in the choice of such measures each Member shall seek to avoid creating balance-of-payments difficulties for other Members.

Article 5

Fair Labour Standards

Each Member, recognizing that all countries have a common interest in the maintenance of fair labour standards, related to national 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 jurisdiction.

Article 6

The Removal of Maladjustments in the Balance of Payments

Members agree that, in case of a fundamental disequilibrium in their balance of payments involving other countries in persistent balance-of-payments difficulties, which handicap them in maintaining employment, they will make their full contribution to action designed to correct the maladjustment.

Article 7

Safeguards for Members Subject to External Deflationary Pressure

The Organization shall have regard, in the exercise of its functions as defined elsewhere in 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.

Article 8

Consultation and Exchange of Information on Matters Relating to Employment

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 government and inter-governmental organizations in the field of employment policies.

GENERAL COMMENTS

It was felt that Article 5 of the charter drafted at the first session, referring to the development of national resources and productivity, ought more logically to appear in chapter IV “Economic Development”. Article 5 was, therefore, removed from chapter III and inserted in chapter IV as article 10. With a view to expressing more adequately the sense of chapter III, the title was amended to read “Employment, Effective Demand and Economic Activity”.

SPECIFIC COMMENTS

Article 3

As it was felt that the title of Article 3 was too narrow in relation to the contents of this article,
it was amended to read “Importance of employment in relation to the purposes of this charter”.

Paragraph 1

(i) The importance of the achievement and maintenance of useful employment opportunities for those able and willing to work and of a high and steadily rising demand for goods and services was further stressed by adding the phrase “for the well-being of other countries” after the words “expansion of international trade”.

(ii) It was felt that the last sentence of paragraph 1 as drafted at the first session was intended to set forth an undertaking, whereas article 3 otherwise merely contained a recognition of principles. The sentence in question was, therefore, deleted from article 3 and inserted in article 4 as paragraph 2.

Article 4

As explained above the last sentence of paragraph 1 of Article 3 of the former text was incorporated as paragraph 2 of Article 4. In addition to some minor drafting changes in this Article, the words “other countries” in paragraph 2 were replaced by “other Members”.

Article 5

(i) It was suggested that a reference to the International Labour Organization, whose functions include the problem of maintaining fair labour standards, should be inserted in this article. However, on the understanding that the main work in this field should be carried out by the International Labour Organization and that, most members being also members of that Organization, they would normally co-operate closely with it in giving effect to the undertaking set forth in Article 5, it was agreed that such a reference was superfluous.

(ii) One delegate reserved his position with regard to this article.

Article 7

One delegate, considering a serious decline in effective demand as having effects in all respects comparable to those of a crisis of overproduction, was of the opinion that Article 7 should establish a procedure similar to that laid down in Chapter VII with a view to meeting crises of overproduction in certain commodities.
CHAPTER IV. ECONOMIC DEVELOPMENT

Article 9
Importance of Economic Development in Relation to the Purposes of This Charter

The Members recognize 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 ultimately to economic stability, expand international trade, and raise levels of real income, thus strengthening the ties of international understanding and accord.

Article 10
Development of Domestic Resources and Productivity

Recognizing that all countries have a common interest in the productive use of the world's human and material resources, Members shall take action designed progressively to develop industrial and other economic resources and to raise standards of productivity within their jurisdictions through measures compatible with the other provisions of this Charter.

Article 11
Plans for Economic Development

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

2. The Organization, upon the request of any Member, shall advise such Member concerning its plans for economic development and shall, within the competence and resources of the Organization and on terms to be agreed, provide such Member with technical assistance in completing its plans and carrying out its programmes or arrange for the provision of such assistance. The Organization may, in accordance with the principles of this Chapter, consult with and make recommendations to Members and appropriate inter-governmental organ-
izations relating to the encouragement of the industrial and general economic development of Member countries.

Article 12
Means of Economic Development

1. Progressive economic development is dependent upon adequate supplies of capital funds, materials, equipment, advanced technology, trained workers and managerial skill. Accordingly, the Members shall impose no unreasonable impediments that would prevent other Members from obtaining any such facilities for their economic development and shall co-operate in accordance with Article 11, within the limits of their power, in providing or arranging for the provision of such facilities.

2. Each Member, in its treatment of other Members and of business entities or persons within the jurisdiction of other Members which supply it with facilities for its industrial and general economic development, shall not only carry out all relevant international obligations to which it may be subject or which it may undertake pursuant to sub-paragraph (c) of Article 61 or otherwise but also shall in general take no unreasonable action injurious to the interest of such other Members, business entities or persons.

3. Any Member, or with the authorization of a Member, any affected business entity or person within that Member's jurisdiction, may submit to the Organization a complaint that action by another Member is inconsistent with its obligations under this Article. The Organization may, without prejudice to the application of Article 35, request the Members concerned to enter into consultation with a view to reaching a mutually satisfactory settlement and may lend its good offices to this end.

Article 13
Governmental Assistance to Economic Development

1. The Members recognize that special governmental assistance may be required in order to promote the establishment or reconstruction of particular industries and that such assistance may take the form of protective measures. At

(i) This Article was transferred from Chapter III, as explained in the General Comments on that Chapter.
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, considers it desirable to adopt any protective measure which would conflict with any other provision of this Charter, or with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter V, it 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. The Organization shall promptly inform those Members whose trade would be substantially affected by the proposed measure and afford them an opportunity of presenting their views. The Organization shall then promptly examine the proposed measure in the light of the provisions of this Chapter and other relevant provisions of this Charter, the considerations presented by the applicant Member, the views presented by the other Members which would be substantially affected by the proposed measure and such criteria as to productivity and other factors as it may establish, taking into account the stage of economic development or reconstruction of the applicant Member.

(b) If, as a result of its examination pursuant to sub-paragraph (a), the Organization concurs in any measure which would be inconsistent with any obligation that the applicant Member has assumed through negotiations with any other Member or Members pursuant to Chapter V 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 and the other Member or Members which would be substantially affected by the proposed measure and such criteria as to productivity and other factors as it may establish, taking into account the stage of economic development or reconstruction of the applicant Member.

(c) If, as a result of its examination pursuant to sub-paragraph (a), the Organization concurs in any measure, other than those provided for in sub-paragraph (b), which would be inconsistent with any other provision of this Charter, the Organization may release the applicant Member from any obligation under such provision, subject to such limitations as the Organization may impose. One delegate with the support of three other delegates, submitted the following additional text to Article 13:

1. Members agree that they will not impose new or intensify existing quantitative restrictions on imports for protective purposes except when such restrictions are no more restrictive in their effect than other forms of protection.

2. The Organization may at any time invite any Member which is imposing quantitative restrictions on imports under paragraph 1 to consult with it about the form and extent of the restrictions and shall invite the Member substantially intensifying such restrictions to consult accordingly within thirty days. Members agree to participate in such discussions when so invited. The Organization shall within two years of its institution review all restrictions existing at its institution and subsequently maintained under paragraph 1.

3. Any Member applying or intending to apply quantitative restrictions on imports under paragraph 1 may if it so desires consult with the Organization with a view to obtaining the previous approval of the Organization for restrictions which it intends to maintain or to impose or for the maintenance or imposition in the future of restrictions under specified conditions. As a result of such consultation the Organization may approve in advance the maintenance, imposition, or intensification of import restrictions by the Member in question in so far as the general extent, degree and duration of the restrictions are concerned. To the extent to which such approval has been given, the action of the Member imposing restrictions shall not be open to challenge under paragraph 4 in so far as it relates to action taken in conformity with paragraph 1.

4. Any Member, which considers that any other Member is applying import restrictions under paragraph 1 in a manner inconsistent with the terms of that paragraph, may bring the matter for discussion to the Organization. The Member imposing restrictions shall then participate in the discussions of the reasons for its action. The Organization shall, if it is satisfied that there is prima facie case that the complaining Members' interests are adversely affected, consider the complaint. It may then recommend the withdrawal or modification of restrictions which it determines are being applied in a manner inconsistent with the terms of paragraph 1.

If restrictions are not withdrawn or modified in accordance with the recommendations of the Organization within sixty days, such other Members shall be released from such obligations incurred under this Charter towards the Member applying the restrictions as the Organization may specify.
(ii) The words "human and material" were inserted before "resources" so as to stress that the productive use of the world's resources covers material sources of wealth derived both from nature and production on the one hand and resources of manpower and human skills on the other.

**Article 11**

**Paragraph 1**

This paragraph has been deleted and its substance transferred to the new Article 10.

**Paragraph 2**

(i) The words "on terms to be agreed" were added so as to meet the question of the payment for assistance received.

(ii) The possible sources of such assistance were broadened by stating that the Organization might "arrange for the provision of such assistance", thus leaving the way open for Members to avail themselves of other means of international co-operation in this field.

(iii) The first sentence of this paragraph had been placed between brackets at the First Session pending the consideration by the Economic and Social Council of a specific request made by the Preparatory Committee in respect of the international allocation of functions related to economic development. This request was considered by the Economic and Employment Commission of the Council at its First Session from 20 January to 5 February 1947. In its report to the Economic and Social Council the Commission recommended that it was premature to attempt, at least at this stage, to make a rigid division of functions not yet allocated in the field of economic development. The Commission did not see any reason at present to suggest that paragraph 3 of Article 11 of the Charter should be omitted in paragraph 3 of Article 12 should be maintained in paragraph 3 of Article 12 should be substituted for the wording used, thus introducing a simpler procedure for complaints and consultation.

(iii) One delegate proposed that a further sub-paragraph be added to paragraph 2 and submitted the following text:

"(d) Members recognize that the development of industry in small nations is hampered by the lack of a sufficiently large market for manufactured goods. Consequently the Organization shall give the most favourable consideration to any proposal for preferential tariff arrangements presented to it by small Member nations belonging to one economic region, aiming at the development of industry in that region, with a view to releasing them from their obligations under Chapter V."

**Paragraph 2 (b)**

One delegate reserved his position regarding the phrase "subject to such limitations, . . . members concerned".
CHAPTER V. GENERAL COMMERCIAL POLICY

Section A. GENERAL COMMERCIAL PROVISIONS, MOST-FAVOURED-NATION TREATMENT

Article 14

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 connexion with importation or exportation and with respect to all matters in regard to which national treatment is provided for in Article 15, 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 be construed to require the elimination of any preferences in respect of customs duties or other charges imposed on importation, which do not exceed the preferences remaining in force after the negotiations contemplated in Article 24 and which fall within the following descriptions:

(a) Preferences in force exclusively (i) between two or more territories which on 1 July 1939 were connected by common sovereignty or relations of protection or suzerainty; or (ii) between two or more of the territories listed in Annexure A to this Charter. Each Member to which provision (i) applies shall provide a list of such territories which shall be incorporated in an annexure to this Charter.

(b) Preferences in force exclusively between the United States of America and the Republic of Cuba.

(c) Preferences in force on 1 July 1946 exclusively between neighbouring countries.

Article 15

National Treatment on Internal Taxation and Regulation

1. The Members agree that neither internal taxes nor other internal charges nor internal laws, regulations or requirements should be used to afford protection directly or indirectly for any national product.

2. The products of any Member country imported into any other Member country shall be exempt from internal taxes and other internal charges of any kind imposed, directly or indirectly, on like products of national origin.

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**Article 14**

GENERAL COMMENT

Two delegates maintained their suggestion made at the First Session that Articles 14 and 24 should be interpreted in such a way that, so long as a preference remained accordable in one part of a preferential system specified in paragraph 2 of Article 14, that part of the preferential system according the preferences should be at liberty to extend the same, or a lesser measure of preference to any other part of the same preferential system which at present did not enjoy it. One other delegate agreed with this suggestion.

SPECIFIC COMMENTS

Paragraph 2

(a) One delegate wished to reserve the right of his Government in case of absolute need to resort to preferences in the future.

(b) One delegate, while accepting in principle paragraph 2, was not in full agreement with the provision as it stood. He wished to reserve the right to raise the question at the Second Session or at the World Trade Conference.

**Article 15**

GENERAL COMMENTS

1. One delegate maintained his suggestion at the First Session that a new paragraph should be added providing for date of entry into force of this Article.

2. Another delegate reserved his position on this Article.

SPECIFIC COMMENTS

Paragraph 2

Two delegates wished to maintain the objections against this paragraph raised by them at the First Session. (One of them had commented that there should be no objection against discriminatory internal taxes levied only for the purpose of raising revenue and the other had reserved his Government's right to vary charges levied on an imported product when the variations were required for the maintenance of a uniform price of the product in the domestic market).
3. 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 or requirements affecting their internal sale, offering for sale, transportation, distribution or use of any kind whatsoever. The provisions of this paragraph shall be understood to preclude the application of internal requirements restricting the amount or proportion of an imported product permitted to be mixed, processed or used, Provided that any such requirement in force on the day of the signature of this Charter may be continued until the expiration of one year from the day on which this Charter enters into force, which period may be extended in respect of any product if the Organization concurs that the requirement concerned is less restrictive of international trade than other measures permissible under this Charter. Requirements permitted to be maintained under the foregoing proviso shall be subject to negotiation in the manner provided for in respect of tariffs under Article 24.

4. The provisions of paragraphs 1 and 3 of this Article shall not be construed to prevent the application of internal laws, regulations or requirements, other than taxes, relating to the distribution or exhibition of cinematograph films. Any laws, regulations or requirements so applied shall, however, be subject to negotiation for their liberalization or elimination in the manner provided for in respect of tariffs and preferences under Article 24.

5. The provisions of this Article shall not apply to the procurement by governmental agencies of supplies for governmental use and not for resale [nor for use in the production of goods for sale].

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**Paragraph 3**

(a) Three delegates maintained the reservations their delegations had made at the First Session as to the requirements concerning mixing, processing, etc. considered in this paragraph. A fourth delegate joined in this reservation.

(b) One delegate suggested that the following second proviso be added at the end of the penultimate sentence of this paragraph: "or provided that reasonable new requirements may be established in respect of any product if the Organization concurs that the requirements are less restrictive of international trade than other measures permissible under this Charter." The same delegate reserved his position on the last sentence of this paragraph.

**Paragraph 4**

(a) The second sentence provides that laws, regulations and requirements relating to the distribution and exhibition of cinematograph films will be subject to negotiation in the same manner as those considered under paragraph 3. It was the understanding of the Committee that the provisions contained in this sentence would only imply that there should be willingness to negotiate for liberalization or elimination of the laws, regulations and requirements in question but that, as in the case of tariffs, Members would be free to adopt legislative or other measures affecting the distribution or exhibition of cinematograph films as long as these measures were not bound by the trade agreements.

(b) One delegate reserved his position on the second sentence.

(c) One delegate made a statement to the effect that the film hire tax in his country which is in reality a delayed customs duty levied at the point where the real value has become apparent, should neither be regarded as being covered by the terms "internal laws" or "regulations" or "requirements" whenever such words appear in Article 15, nor as an internal tax. The film hire tax, he pointed out, which is not associated with any form of film quota, but which contains a preference element, could thus be the subject of negotiations of the kind provided for in Article 24 with respect to tariffs. This country, he declared, did not produce cinematograph films other than educational and newsreels, and such films were exempt from tax. Films of all types imported from a certain country were subject to tax at a rate lower than that applied to other foreign films.

(d) One delegate reserved his position on this paragraph.

**Paragraph 5**

The words in square brackets were added for later consideration in connection with a similar addition to paragraph 2 of Article 31.
Article 16

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 transhipment, 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”. The provisions of this Article shall not apply to the operation of aircraft in transit.

2. There shall be freedom of transit through the Member countries 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 nationality of persons, the flag of vessels, the place of origin, departure, entry or destination, or on any circumstances relating to the ownership of goods, or vessels or 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 for the sake of consistency, no exemption should be made for the operation of aircraft in transit.

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

5. With respect to all charges, rules, and formalities in connexion 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 (expédition directe) 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 country’s prescribed method of valuation for duty purposes.

Article 16

GENERAL COMMENT

(a) The original text referred in general to persons, goods and means of transport. The text recommended by the Drafting Committee refers to goods and means of transport only, since the transit of persons was considered not to be within the scope of the Charter and since traffic of persons is subject to immigration laws and may properly be the concern of an international agency other than the Organization.

(b) One delegate objected to the deletion of the word “persons”.

(c) Another delegate declared that he would prefer confining the provisions of Article 16 to goods only (that is, he wished to exclude means of transport).

SPECIFIC COMMENTS

Paragraph 1

(a) Two delegates were of the opinion that, 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.
Article 17

Anti-Dumping and Countervailing Duties

1. No anti-dumping duty or charge shall be imposed 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 is less than, (a) the comparable price for the like product to buyers in the domestic market of the exporting country, or, in the absence of such domestic price, either (b) the highest comparable price at which the like product is sold for export to any third country in the ordinary course of commerce, or (c) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit; with due allowance 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 imposed 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 production or export of such product in the country of origin or exportation. The term “countervailing duty” shall be understood to mean an additional duty imposed 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 imposed in the country of origin or exportation upon the like product when consumed domestically, 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 impose any anti-dumping or countervailing duty or charge on the importation of any product of other Member countries unless it determines that the effect of the dumping or subsidization, as the case may be, is such as materially to injure or threaten to injure an established domestic industry, or is such as to prevent the establishment of a domestic industry.

6. Nothing in this Article shall preclude Members, parties to a regulatory commodity agreement conforming to the principles of Chapter VII, from incorporating in such agreement provisions prohibiting, as between themselves, the use of anti-dumping duties in cases in which dumping, within the meaning of paragraph 1 of this Article, may be permitted under the terms of such an agreement.

Paragraph 1

(a) It was understood that paragraph 1 refers only to price dumping and that the term “anti-dumping duty”, as used therein, refers only to an additional duty imposed for the purpose of offsetting such dumping.

(b) One delegate suggested that the word “landed” be inserted before “price of the product exported” in the definition of the margin of dumping (second sentence).

(c) Four delegates suggested that the words “by more than five per cent” be inserted in the same definition after “another is less”.

(d) Five delegates favoured the authorization of measures besides anti-dumping duties to offset price-dumping.

(e) One delegate reserved his position on this paragraph, being of the opinion that heavier than counter-balancing duties or quantitative restrictions should be allowed in cases of aggravated or sporadic dumping

Paragraph 2

1. One delegate suggested the following addition to this paragraph:

“In the event of preferential treatment being accorded by a country to certain countries to the exclusion of other Member countries, no countervailing duty shall be imposed upon the products imported from such other Member countries against subsidies which are granted by the latter to such products as compensation for covering the preferential margin.”

2. One delegate suggested that quantitative restrictions or other punitive measures should be permissible in order to cope with the import of subsidized products.

Paragraph 5

One delegate suggested the deletion of this paragraph.

Suggested new paragraph

Three delegates suggested inclusion of the following paragraph:

7. “Any Member maintaining restrictions on forms of dumping other than ‘price dumping’, e.g., freight dumping or dumping by means of depreciation of currency, shall only impose such dumping duties where it has determined after enquiry that the method and extent of dumping against which action is taken is such as to injure or threaten to injure an established domestic industry.”

While not adopting the proposed text, the Committee decided to forward it for consideration at the Second Session.
Article 18

Tariff Valuation

1. The Members undertake to work toward the standardization, in so 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 to furthering such co-operation, the Organization is authorized to investigate and recommend to Members such bases and methods for determining the value of products 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 tariff valuation set forth in the following sub-paragraphs, and they undertake to give effect to such principles, in respect of all products subject to duties, charges or restrictions based upon or regulated in any manner by value, at the earliest practicable date. Moreover, they undertake, upon a request by another Member, to review the operation of any of their laws or regulations relating to value for duty purposes in the light of these principles. The Organization is authorized to request from Members reports on steps taken by them in pursuance of the provisions of this paragraph.

Alternative A

The value for duty purposes of imported products should be based on the actual value of the kind of imported merchandise on which duty is assessed, or the nearest ascertainable equivalent of such value, and should not be based on the value of products of national origin or on arbitrary or fictitious valuations.

Alternative B

The value for duty of imported products should be based on their actual value as represented by the price at which, at a determined time and place, and in the ordinary course of trade between independent buyer and seller, like goods are sold or offered for sale in quantities and under conditions comparable to those under which the imported goods are sold or offered for sale, or the nearest ascertainable equivalent of such value. The value should not be based on the value of products of national origin or on arbitrary or fictitious valuations.

Alternative C

Where an actual price of imported products is not accepted as the basis for determining their value for duty purposes, their assessed value should not be based on the value of products of national origin or on arbitrary or spurious valuations, but should satisfy clearly defined and stable conditions which conform with commercial usage.

(b) The value for duty purposes of any imported product should not include the amount of any [customs duty or] internal tax, applicable within the country of origin or export, from which the imported product has been relieved or made exempt by means of refund.

(c) In converting the value of any imported product from one currency to another for the purpose of assessing duty, the rate of exchange to be used should be fixed in accordance with prescribed standards to reflect effectively the current value of each currency in commercial transactions.

(d) The bases and methods for determining the value of products subject to duties, charges or restrictions based upon or regulated by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the amount of duty likely to be imposed.

Paragraph 2 (a)

The Committee did not reach agreement on paragraph 2 (a) of this Article and therefore submits three alternative texts for consideration at the Second Session. Alternative A represents the text in the United States Draft Charter; Alternatives B and C were drafted in order to clarify to a certain extent the expression “actual value”.

Paragraph 2 (c)

(a) One delegate reserved the right to recommend insertion of the words “or rates” after “rate”, or otherwise to provide for the conversion of currencies in the cases of dual or multiple rates.

(b) One delegate reserved his position on this paragraph.
Article 19

Customs Formalities

1. The Members recognize the principle that subsidiary fees and charges imposed on or in connexion 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. They also recognize the need for reducing the number and diversity of such subsidiary 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. Members undertake to give effect to the principles and objectives of paragraph 1 of this Article at the earliest practicable date. Moreover, they undertake, upon request by another Member, to review the operation of any of their customs laws and regulations in the light of these principles. The Organization is authorized to request from Members reports on steps taken by them in pursuance of the provisions of this paragraph.

3. Except in cases of serious negligence, greater than nominal penalties over and above the duty properly payable should not be imposed by any Member in connexion with the importation of any product of any other Member country because of errors in documentation which are obviously clerical in origin or with regard to which good faith can be established.

4. The provisions of this Article shall extend to fees, charges, formalities and requirements relating to all customs matters, including:

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

Article 20

Marks of Origin

1. The Members agree 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 imposed 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. Members agree to work in co-operation through the Organization toward the early elimination of unnecessary requirements as to marks of origin. The Organization is authorized to investigate 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 in a degree disproportionate to any proper purpose to be served, and which shall not in any case be required to be marked to indicate their origin.

Paragraph 3

At the First Session certain delegates had objected to the text of the corresponding paragraph in the United States Draft Charter which begins: "Whenever administratively possible Members shall . . . ." The present text in which the words "practicable" and "should" are substituted for "possible" and "shall," represents a compromise acceptable to the majority of members of the Committee. Four delegates stated that they would have preferred to maintain the word "shall."

One delegate reserved his position on this paragraph which in his view should be deleted.
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 has been unreasonably delayed or deceptive marks have been affixed or the required marking has been intentionally omitted.

7. The interest of Members in protecting the regional and geographical marks of origin of their distinctive products is recognized and shall be given consideration by the Organization which is authorized to recommend a conference of interested Members on the subject.

Article 21
Publication and Administration of Trade Regulations Advance Notice of Restrictive 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 or insurance, or affecting their warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable traders and governments 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 interests or would prejudice the legitimate business interests of particular enterprises, public or private.

Organization a list of such marks and trade names as are protected by their domestic legislation and for which they wish to secure protection in importing countries. They undertake further to take part in any conference called by the Organization to secure effective international protection for marks of origin."

(b) One delegate reserved his position since he considered that further time was required for studying the matter which ought to be taken up at a later date.

(c) One delegate reserved his right to present a new text of this paragraph at the Second Session.

Article 21
Paragraph 1

The Committee felt that it might be useful if the Preparatory Committee were to suggest the absorption by the Organization of certain existing international agencies such as the Brussels Tariff Bureau, and arrangements for collecting, analyzing and publishing laws, regulations and decisions concerning foreign trade and for the periodical collection, in detailed studies, of information concerning the regulations of Member states on any given point. Attention was drawn in this connection to the provision of paragraph 4 of Article 81.

Paragraph 2

A reservation was made by two delegates who were of the opinion that appeals against administrative decisions might be made to the competent minister and that it should not be necessary to provide for independent tribunals or procedures.
2. 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. Moreover, Members undertake to maintain, or to 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.

3. No administrative ruling of any Member effecting an advance in a rate of import duty or other charge under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefore, shall, as a general rule and within the limits of administrative practicability, be applied to products of any other Member country already enroute at the time of publication thereof in accordance with paragraph 1 of this Article, provided, that if any Member customarily exempts from such new or increased obligations products entered for consumption or withdrawn from warehouse for consumption during a period of thirty days after the date of such publication, such practice shall be considered full compliance with this paragraph. The provisions of this paragraph shall not apply to anti-dumping or countervailing duties.

Article 22
Information, Statistics and Trade Terminology

1. The Members shall communicate to the Organization as promptly and in as much detail as is reasonably practicable:

(a) Statistics of their external trade in goods (including imports, exports, re-exports, transit and transhipment and, where applicable, 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.

So far as possible, the statistics referred to in (a) and (b) shall be related to tariff classifications and 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 by amounts of exchange made available.

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

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

4. The Members shall make available to the Organization, at its request and in so far as 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.

5. 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 may, in collaboration with the Economic and Social Council of the United Nations and its Commissions, and with any other interested international organization, engage in studies with a view to bringing about improvements in the methods of collecting, analyzing and publishing economic statistics and may promote the international comparability of such statistics, including the possible international adoption of standard tariff and commodity classifications.

6. The Organization may also, in cooperation with the other organizations referred to in paragraph 5 of this Article, 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 relevant thereto, and may promote the general acceptance by Members of such standards, nomenclatures, terms and forms as may be recommended.
Article 23

**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.

**SECTION B. TARIFF AND TARIFF PREFERENCES**

**Article 24**

**Reduction of Tariffs and Elimination of Preferences**

1. Each Member, other than a Member subject to the provisions of Article 33, shall, upon the request of any other Member or Members, enter into reciprocal and mutually advantageous negotiations with such other Member or Members directed to the substantial reduction of tariffs and other charges on imports and exports and to the elimination of import tariff preferences. These negotiations shall proceed in accordance with the following rules:

   (a) Prior international commitments shall not be permitted to stand in the way of negotiations with respect to tariff preferences, it being understood that action resulting from such negotiations shall not require the modification or termination of existing international obligations except by agreement between the contracting parties, or failing that, by termination of such obligations in accordance with their terms.

   (b) All negotiated reductions in most-favoured-nation import tariffs shall operate automatically to reduce or eliminate margins of preference, and no margin of preference shall be increased.

   (c) The binding or consolidation 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.

2. Each Member participating in negotiations pursuant to paragraph 1 shall keep the Organization informed of the progress thereof and shall transmit to the Organization a copy of the agreement or agreements incorporating the results of such negotiations.

3. If any Member considers that any other Member has failed, within a reasonable period of time, to fulfill its obligations under paragraph 1 of this Article, such Member may refer the matter to the Organization, which shall make an investigation and make appropriate recommendations to the Members concerned. The Organization, if it finds that a Member has, without sufficient justification, having regard to the provisions of the Charter as a whole, failed to negotiate with such complaining Member in accordance with the requirements of paragraph 1 of this Article, may determine that the complaining Member, or in exceptional cases the Members of the Organization generally, shall, notwithstanding the provisions of Article 14, be entitled to withdraw from the trade of the other Member any of the tariff benefits which the complaining Member, or the Members of the Organization generally as the case may be, may have negotiated pursuant to paragraph 1 of this Article. 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. The provisions of this paragraph shall operate in accordance with the provisions of Article 67.

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**Paragraph 1 (b)**

Four delegates maintained their views expressed at the First Session—namely, that in accordance with the agreed principle of negotiations on a mutually advantageous basis the rule contained in this paragraph should not operate automatically, but that Members should be free to negotiate for a reduction in the preferential rate as well as in the most-favoured-nation rate, provided that the resulting margin between the two negotiated rates is smaller than that existing on the base date.

**Paragraph 3**

(a) Two delegates reserved their position and
SECTION C. QUANTITATIVE RESTRICTIONS AND EXCHANGE CONTROL

Article 25

General elimination of quantitative restrictions

1. Except as otherwise provided in this Charter, no prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import licenses 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) Prohibitions or restrictions on imports or exports instituted or maintained during the early post-war transitional period which are essential to: (i) The equitable distribution among the several consuming countries of products in short supply, whether such products are owned by private interests or by the Government of any Member; (ii) The maintenance of war-time price control by a Member country undergoing shortages subsequent to the war; (iii) 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 prohibitions or restrictions for this purpose may not be instituted by any Member after the day on which this Charter comes into force, except after consultation with other interested Members with a view to appropriate international action.

(b) Export prohibitions or restrictions temporarily applied to relieve critical shortages of foodstuffs or other essential products in the exporting Member country.

(c) Import and export prohibitions or restrictions necessary to the application of standards for the classification and grading of commodities in international trade. If, in the opinion of the Organization, the standards adopted by a Member under this sub-paragraph are likely to have an unduly restrictive effect on trade, the Organization may request the Member to revise the standards provided that it shall not request the revision of standards internationally agreed under paragraph 6 of Article 22.

(d) Export or import quotas applied under regulatory inter-governmental commodity agreements concluded in accordance with the provisions of Chapter VII.

(e) 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 of the like domestic product permitted to be marketed or produced, or (ii) to remove a temporary surplus of the like domestic product by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level. Any Member imposing restrictions on the importation of any product pursuant to this sub-section shall notify the Organization of the matter; and the Member which has altered its method of valuation or its tariff classification shall enter into such further negotiations as requested.

The questions raised have been dealt with in Article VIII (paragraph 2 and footnote) of the Draft General Agreement on Tariffs and Trade. Whether such a paragraph should be included in Article 24 was left for further consideration at the Second Session. Several delegates expressed their approval in principle of inclusion.
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 (1) 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 the 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. The Member shall consult with any other Members which are interested in the trade in question and which wish to initiate such consultations.

(f) Import and export prohibitions or restrictions on private trade for the purpose of establishing a new, or maintaining an existing, monopoly of trade for a state-trading enterprise operated under Articles 31, 32 or 33.

Article 26
Restrictions to Safeguard the Balance of Payments

1. The Members may need to use import restrictions as a means of safeguarding their external financial position and as a step toward the restoration of equilibrium in their balance of payments on a sound and lasting basis, particularly in view of their increased demand for imports needed to carry out their domestic employment, reconstruction, development or social policies. Accordingly, notwithstanding the provisions of Article 25, any Member may restrict the quantity or value of merchandise permitted to be imported insofar as this is necessary to safeguard its balance of payments and monetary reserves.

2. The use of import restrictions under paragraph 1 of this Article shall be subject to the following requirements:

(a) No Member shall institute [or maintain] restrictions or intensify existing restrictions except to the extent necessary to forestall the imminent threat of, or to stop, a serious decline in the level of its monetary reserves or, in the case of a Member with very low monetary reserves, to achieve a reasonable rate of increase in its reserves. Due regard should be paid in each case to any special factors which may be affecting the level of the Member's reserves, to any commitments or other circumstances which may be affecting its need for reserves, and to any special credits or other resources which may be available to protect its reserves.

(b) The Members shall eliminate the restrictions when conditions would no longer justify

Article 25
Paragraph 2 (e)

(a) The Committee considered the proviso with reference to goods en route which had been inserted in square brackets in paragraph 2 (f) as adopted at the First Session, with the indication that it should be retained "only if the matter is not fully covered in Article 21." The Committee decided to delete the proviso and to amend Article 27 so as to include provisions concerning public notice and goods en route (cf. paragraph 3 (c) of Article 27). The remainder of the previous paragraph 2 (f) was merged with paragraph 2 (e).

2. One delegate proposed the following addition:

"Restriction imposed under this exception should be strictly limited to the periods during which the aforesaid circumstances occur, and should not be imposed on seasonal commodities at a time when like domestic products are not available."

(c) One delegate maintained the proposal made by his delegation at the First Session that this paragraph should not be confined to agricultural and fisheries products.

(d) One delegate reserved his position and suggested the following text:

"Import prohibitions or restrictions on any agricultural or other essential products imported in any form necessary to the enforcement of governmental measures which operate to regulate production, distribution, or consumption of like domestic products with a view to maintaining a dynamic equilibrium between the diverse economic activities of a country while in the process of its industrialization."

The same delegate reserved his position concerning the relevant provision in paragraph 4 of Article 27.

(e) One delegate suggested that the words "or to support the prices of such products" be added after "produced" and that the two sentences from "Any restrictions" to "the product concerned" in paragraph 2 (f) be deleted.

(f) One delegate was unable to express an opinion on the reservation which his delegation had made at the First Session with a view to confining paragraph 2 (e) (i) to agricultural products.

(g) One delegate suggested that the words "or of a directly competitive product which may be marketed or produced" be added after the word "produced" in paragraph 2 (e) (i).

Article 26
Paragraph 2 (c)

Two delegates stated that they preferred the wording adopted at the First Session. ("Not to carry the imposition of new import restrictions
their institution [or maintenance] under sub-paragraph (a), and shall relax them progressively as such conditions are approached;

(c) The Members shall not apply the restrictions in such a manner as to exclude completely imports of any class of goods.

3. (a) Any Member which is not applying restrictions under paragraphs 1 and 2 of this Article but which is considering the need for their institution, shall, before instituting such restrictions (or, in circumstances in which prior consultation is impracticable, immediately following upon the institution of such restrictions) consult with the Organization as to the nature of its balance-of-payments difficulties, the various corrective measures which may be available, and the possible effects of such measures on the economies of other Members. The Organization shall invite the International Monetary Fund to participate in the consultations. No Member shall be required during such discussions to indicate in advance the choice or timing of any particular measures which it may ultimately determine to adopt.

(b) The Organization may at any time invite any Member applying import restrictions under paragraphs 1 and 2 of this Article to consult with it about the form or extent of the restrictions, and shall invite a Member substantially intensifying such restrictions to consult accordingly within thirty days. Members thus invited shall participate in such discussions. In the conduct of such discussions the Organization shall consult the International Monetary Fund and any other appropriate inter-governmental organization, in particular with regard to the alternative methods available to the Member in question of meeting its balance-of-payments difficulties. The Organization shall, not later than two years from the day on which this Charter enters into force, review all restrictions existing on that day and still applied under paragraphs 1 and 2 of 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 paragraphs 1 and 2 of this Article to maintain, intensify or institute, or for the maintenance, intensification or institution of restrictions under specified future conditions. The Organization shall invite the International Monetary Fund to participate in the consultations. 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 and duration of the restrictions are concerned. To the extent to which such approval has been given, the action of the Member applying restrictions shall not be open to challenge under sub-paragraph (d) on the ground that such action is inconsistent with the provisions of paragraphs 1 and 2 of this Article.

(d) Any Member which considers that any other Member is applying import restrictions under paragraphs 1 and 2 of this Article in a manner inconsistent with the provisions of those paragraphs or of Articles 27 and 28, or in a manner which unnecessarily damages its commercial interests, may bring the matter for discussion to the Organization. The Member applying the restrictions shall then participate in discussions of the reasons for its action. The Organization, if it is satisfied that there is a prima facie case that the complaining Member's

Paragraph 3 (b)

The last sentence was modified so as to exempt the Organization from the obligation to report on restrictions which were in existence on the date the Charter came into operation but were lifted before the review was made.

Paragraph 3 (c)

One delegate pointed out that, although under the last sentence a restriction imposed by a Member after prior approval was not subject to challenge under sub-paragraph (d), the provisions of sub-paragraph (a) would still be applicable. He did not consider this desirable and suggested that sub-paragraph (c) be modified so as to eliminate the application of sub-paragraph (a) when prior approval for the restriction had been obtained.

Paragraph 3 (d)

(a) The words "and, if it considers it desirable, after submitting observations to the parties with the aim of achieving a satisfactory settlement of the matter in question" were inserted with a view to enabling the Organization to attempt conciliation between Members before recommending the withdrawal or modification of restrictions.

(b) In the last sentence the word "approve" was substituted for "specify" after it had been pointed out that it would be difficult for the Organization to determine from which obligations a Member should be released.
interests are adversely affected, may, after consultation with the International Monetary Fund on any matter falling within the competence of the Fund, and, if it considers it desirable, after submitting observations to the parties with the aim of achieving a satisfactory settlement of the matter in question, recommend the withdrawal or modification of restrictions which it determines are being applied in a manner inconsistent with the provisions of paragraphs 1 and 2 of this Article or of Article 27 or 28 or in a manner which unnecessarily damages the interests of another Member. If the restrictions are not withdrawn or modified in accordance with the recommendation of the Organization within sixty days, such other Member or Members shall be released from such obligations incurred under this Charter towards the Member applying the restrictions as the Organization may approve.

(e) The Organization, in reaching its determination under sub-paragraph (d) shall not recommend the withdrawal or general relaxation of restrictions on the ground that the existing or prospective balance-of-payments difficulties of the Member in question could be avoided by a change in that Member's domestic employment, reconstruction, development or social policies. In carrying out such domestic policies, however, Members shall pay due regard to the need for restoring equilibrium in their balance of payments on a sound and lasting basis.

4. In giving effect to the restrictions on imports under this Article, a Member may restrict imports of products according to their relative essentiality in such a way as to give priority to the importation of products required by its domestic employment reconstruction, development or social policies and programmes. In so doing the Member shall avoid all unnecessary damage to the commercial interests of other Members.

5. If there is 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 seek consultation with the International Monetary Fund. The Organization may then, in collaboration throughout with the Fund, 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.

6. 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 28, take full account of the difficulties of post-war adjustment.

7. Throughout this Section the phrase "import restrictions" includes the restriction of imports by state-trading enterprises to an extent greater than that which would be permissible under Article 32.

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(c) One delegate, supported by two other delegates, suggested the following addition:

"The Organization may initiate proceedings, analogous to the foregoing, if it considers that any Member is applying import restrictions under paragraphs 1 and 2 of this Article in a manner inconsistent with the provisions of paragraph 1 and 2 of this Article, or of Article 27".

(d) One delegate suggested that the expression "under paragraphs 1 and 2" be amended to "under paragraphs 1, 2 and 4". The Committee considered that the sub-paragraph as it stands should be interpreted as covering the restrictions referred to under paragraph 4.

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Paragraph 4

Four delegates felt that the text might be clarified at the Second Session.

Paragraph 6

The Committee decided to reverse the order of paragraphs 6 and 7 of the text approved at the First Session.

Paragraph 7

The proviso enclosed in square brackets in the text approved at the First Session was deleted since it was considered covered by paragraph 1 of Article 21.
Article 27

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. Members shall observe the following provisions in applying import restrictions:

(a) The administration of the restrictions should be carried out in such a way as to result in a distribution of trade which approaches as closely as possible to the shares which the various Member countries might be expected to obtain as the result of international competition in the absence of such restrictions.

(b) 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.

(c) In cases in which quotas are not practicable, the restrictions may be applied by means of import licenses or permits without a quota.

(d) Import licenses or permits, whether or not issued in connection with quotas 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 any other period.

(e) In cases in which a quota is allocated among supplying countries, the shares of the various supplying Member countries should in principle be determined in accordance with commercial considerations such as price, quality and customary sources of supply. For the purpose of appraising such commercial considerations, 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 where import licenses 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 licenses granted over a past recent period and the distribution of such licenses among supplying countries, provided, however, 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, by quantity or value, currently allocated to the various supplying countries and shall give public notice thereof.

Paragraph 2

Paragraph 2 was redrafted so as to make the provisions more clear and more consequential. Sub-paragraph (a), setting out a general principle of administering import restrictions represents an addition to the text adopted at the First Session.

Paragraph 3 (b)

The last sentence was inserted to replace the provision concerning goods en route, included in square brackets in paragraph 2 (f) of Article 25 as worded at the First Session. The second proviso was added to bring this sub-paragraph into harmony with the provision concerning publication of certain administrative rulings contained in paragraph 3 of Article 21.

Paragraph 3 (c)

The words “and shall give public notice thereof” were added.
4. With regard to restrictions applied in accordance with paragraph 2 (e) of this Article or under paragraph 2 (e) of Article 25, 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 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 base period selected or for the re-appraisal of the special factors involved.

5. The provisions of this Article shall apply to any tariff quota established 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 paragraphs 3 and 4 of Article 15.

Article 28

Exceptions to the Rule of Non-Discrimination

1. 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;

(b) prohibitions or restrictions in accordance with paragraphs 2 (a) (i) or 2 (d) of Article 25;

(c) conditions attaching to exports which are necessary to ensure that an exporting Member country receives for its exports its own currency or the currency of any member of the International Monetary Fund specified by the exporting Member country;

(d) restrictions in accordance with Article 26 which either (i) are applied against imports from other countries, but not as between themselves, by a group of territories having a common quota in the International Monetary Fund, Provided that such restrictions are in all other respects consistent with Article 27, or (ii) assist in the period until 31 December 1951, by measures not involving substantial departure from the provisions of Article 27, a country whose economy has been disrupted by war;

(e) restrictions in accordance with Article 26 which both (i) provide a Member with additional imports above the maximum total of imports which it could afford in the light of the requirements of paragraph 2 of Article 26, if its restrictions were consistent with Article 27, and (ii) have equivalent effect to exchange restrictions which are permitted to that Member under the Articles of Agreement of the International Monetary Fund or under the terms of any special exchange agreement which may have been made between the Member and the Organization under Article 29, Provided that a Member which is not applying restrictions on payments and transfers for current international transactions, may apply import restrictions under (i) of this subparagraph in special circumstances and only with the prior approval of the Organization in agreement with the International Monetary Fund.

2. If the Organization finds, after consultation with the International Monetary Fund on matters within the competence of the Fund, that import restrictions or exchange restrictions on payments and transfers in connection with imports are being applied by a Member in a discriminatory manner inconsistent with the exceptions provided under this Article or in a manner which discriminates unnecessarily against the trade of another Member country, the Member shall within sixty days remove the discrimination or modify it as specified by the Organization, Provided that a Member may, if it so desires, consult with the Organization to obtain its prior approval for such discrimination, under the procedure set forth in paragraph 3 (c) of Article 26, and to the extent that such approval is given, the discrimination shall not be open to challenge under this paragraph.

3. When three-quarters of the Members of the Organization have accepted the obligations of Sections 2, 3 and 4 of Article VIII of the Articles of Agreement of the International Monetary Fund, but in any event before 31 December 1951, the Organization shall review the operation of this Article, in consultation with the International Monetary Fund, with a view to the earliest possible elimination of any discrimination, under paragraphs 1 (e) (i) and (ii) of this Article, which restricts the expansion of world trade.

Article 29

Exchange Arrangements

1. The Organization shall seek co-operation with the International Monetary Fund

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**Paragraph 4**

One delegate reserved his position.
to the end that the Organization and the Fund may pursue a co-ordinated policy with regard to exchange questions within the competence of the Fund and questions of quantitative restrictions or other trade measures within the competence of the Organization.

2. Members shall not seek by exchange action to frustrate the purposes of the Organization and shall not seek by trade action to frustrate the purposes of the International Monetary Fund.

3. In order to avoid the imposition of trade restrictions and discriminations through exchange techniques and in order to avoid the danger of conflicting jurisdiction between the Organization and the International Monetary Fund in exchange matters, Members of the Organization shall also undertake membership of the International Monetary Fund, Provided that any country which is not a member of the International Monetary Fund may become a Member of the Organization if upon accepting this Charter it undertakes to enter, within a time to be determined by the Organization after consultation with the International Monetary Fund, into a special exchange agreement with the Organization which would become part of its obligation under this Charter, and Provided further that 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 which shall then become part of its obligations under this Charter.

4. A Member which has made such an agreement undertakes to furnish the Organization with the information which it may require, within the general scope of Section 5 of Article VIII of the Articles of Agreement of the International Monetary Fund, in order to carry out its functions relating to such agreement.

5. A special exchange agreement between a Member and the Organization under paragraph 3 of this Article must provide to the satisfaction of the Organization, collaborating throughout with the International Monetary Fund, that the purposes common to the Organization and the Fund will not be frustrated as a result of action in exchange matters by the Member in question.

6. The Organization shall seek and accept the opinion of the International Monetary Fund as to whether action by the Member in exchange matters is permissible under the terms of the special exchange agreement and shall act in collaboration with the International Monetary Fund on all questions which may arise in the working of a special exchange agreement under this Article.

SECTION D. SUBSIDIES

Article 30
General undertaking regarding subsidies—Elimination of export subsidies—Exceptions

1. If any Member grants or maintains any subsidy, including any form of income or
Article until it is recognized as having been fairly industrialized.

"3. Any Member country making use of the provisions of this Article shall conform to the following conditions:

"(a) Quantitative restrictions to be thus imposed or maintained should be applied on the basis of non-discrimination in respect of its imports from or exports to all Member countries;

"(b) Such quantitative restrictions should be periodically adjusted to meet the changing requirements of the country’s national economy and progressively relaxed with the advance of its industrial development."

The delegate in question explained that his Government was far from intending to cause any harm to other countries and that in the event of any complaint being made by any Member country affected, consultation with the Organization could follow.

Article 30
Paragraph 1
(a) As is suggested in the Report of the First Session (page 16, Section D:1(d)(iv)), the Committee considered the initial words “Except as
price support, which operates directly or indirectly to increase exports of any product and can accordingly operate, "directly or indirectly", to increase exports or reduce imports of any product and can thereby operate directly to affect trade in the same product under consideration. Similarly, in the same sentence the words "anticipated effect" were changed to "estimated effect" in order to remove the possible impression that the effect of a subsidy on trade could be accurately predicted.

Paragraph 2

(a) The initial words of paragraph 2, referring to paragraph 4, were deleted.

(b) Certain other changes, chiefly of a formal nature, were made in the first sentence. It will be observed that the provision in this sentence as now drafted applies to cases in which the subsidy operates, "directly or indirectly", to increase exports or reduce imports of any product and can thus not be interpreted as being confined to subsidies operating directly to affect trade in the product under consideration. Similarly, in the same sentence the words "anticipated effect" were changed to "estimated effect" in order to remove the possible impression that the effect of a subsidy on trade could be accurately predicted.

Paragraph 3

(a) At the First Session one delegate had made a reservation (cf. page 16, Section D, 1(d)(ix) of the Report) with a view to modifying paragraph 2 so that subsidies to promote exports of "special commodities" would be permitted in certain countries until they had attained equilibrium in their balance of payments. The same delegate in the Committee expressed his willingness to withdraw the reservation if satisfied that the subsidies in question were permissible under other provisions of the Charter.

(b) Members shall give effect to the provisions of this paragraph at the earliest practicable date, but in any event not later than three years from the day on which this Charter enters into force. If any Member considers itself unable to make the provisions of this paragraph effective in respect of any specified product or products upon the expiration of such period, such Member shall, at least three months before the expiration of such period, give to the Organization notice in writing requesting a specific extension of the period and accompanied by a complete analysis of the system in question and the facts justifying it. It shall then be determined whether the extension requested should be made.

(c) At the First Session one delegate had made a reservation (cf. page 16, Section D, 1(d)(ix) of the Report) with a view to modifying paragraph 2 "should not be interpreted so as to prevent countries far removed from world market to sell their products at current world market prices even though these may be lower than the prices charged in the domestic market, such action not being the result of a direct or indirect subsidy or of the establishment of any other system."
product to domestic buyers, and if the system
is so operated, either because of the effective
limitation of production or otherwise, as not
to stimulate exports unduly or otherwise seri­
ously prejudice the interest of other Members.

4. (a) 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 provisions of paragraph 2 of this Article
within the time limit laid down therein, the
difficulty may be determined to be a special
difficulty of the kind referred to in Chapter
VII, and in that event the procedure laid
down in that Chapter shall be followed;

(b) If it is determined that the measures
provided for in Chapter VII have not suc­
cceeded, or do not promise to succeed, within
a reasonable period of time, in removing or
preventing the development of a burdensome
world surplus of the primary product con­
cerned, the requirements of paragraph 2 of
this Article shall cease to apply in respect of
such product as from the effective date of such
determination and shall not be re-applied in
respect of such product until a date deter­
mined in accordance with procedures ap­
proved by the Organization.

5. Notwithstanding the provisions of para­
graph 2 and sub-paragraph 4 (b) of this Ar­
ticle, 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 Mem­
ber 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 re­
garding the need for an adjustment of the
base period selected or for the re-appraisal of
the special factors involved.

6. Any determination required by or ap­
propriate to the operation of this Article shall
be made under procedures established by the
Organization in accordance with paragraph 4
of Article 66.

**Section E. State Trading**

**Article 31**

*Non-discriminatory administration of state-
trading enterprises*

1. If any Member establishes or maintains
a state enterprise, wherever located, which
imports, exports, purchases, sells, or distri­
butes any product, or if any Member grants

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**Paragraph 4(b)**

(a) The reference to paragraph 1 was deleted
since it was considered that in cases such as those
dealt with here the obligation of the subsidizing
Member to notify the Organization and discuss
with the Members concerned should not be re­
linquished.

(b) Two delegates reserved their position since
they feared that this sub-paragraph might enable
subsidizing countries, taking such an attitude
that no agreement could be reached, to be free
to act as they wished without regard to their
obligation under paragraph 2. They did not con­
sider the provisions of paragraph 5 an adequate
safeguard against abuse. They therefore sug­
gested that paragraph 4(b) be deleted.

**Paragraph 5**

(a) In the Report of the First Session, this
paragraph appeared as a sub-paragraph of para­
graph 4, which was concerned wholly with pri­
mary commodities. After the change in the text
referred to in the following paragraph, it was
found appropriate to present it as paragraph 5.

(b) The Committee decided to delete the word
"primary" before "product" in the first sentence
so as to extend the limitation provided for to all
export subsidies, whether on primary or non­
primary commodities, whenever such subsidies
are permitted under this Article.

(c) One delegate reserved his position.
exclusive or special privileges, formally or in effect, to any enterprise to import, export, purchase, sell, distribute or produce any product, the commerce of other Members shall be accorded treatment no less favourable than that accorded to the commerce of any country other than that in which the enterprise is located in respect of the purchase or sale by such enterprise of any product. To this end such enterprise shall, in making its external purchases or sales of any product, be influenced solely by commercial considerations, such as price, quality, marketability, transportation and other terms of purchase or sale, having due regard to any differential customs treatment maintained consistently with the other provisions of this Charter.

2. The provisions of paragraph 1 of this Article relating to purchases of imports by state enterprises shall apply to purchases or imports of products for re-sale [or for use in the production of goods for sale]. With respect to purchases or imports by state enterprises of products for governmental use and not for re-sale [or for use in the production of goods for sale]. Members shall accord to the commerce of the other Members fair and equitable treatment, having full regard to all relevant circumstances.

3. This Article shall apply to any enterprise, organ or agency in which there is effective control by a Member government.

Alternative A
or over whose trading operations a Member government exercises effective control by virtue of the special or exclusive privileges granted to the enterprise.

Alternative B
or over whose trading operations a government is, under the arrangements providing for the special or exclusive privileges granted to the enterprise, legally entitled to exercise effective control.

Paragraph 2

(a) The words "or for use in the production of goods for sale" were added in square brackets in this paragraph as well as in paragraph 5 of Article 15, for consideration at a later stage.

(b) Three delegates reserved their position with regard to the insertion of these words.

Paragraph 3

(a) The text contains two alternatives presented for consideration at the Second Session.

(b) Three delegates reserved their position stating that they preferred the text adopted at the First Session. Two of them stated that, if they would have to choose between the two alternatives now recommended, they would prefer Alternative A.
been established pursuant to paragraph 1 (b) or paragraph 2 of this Article, the monopoly shall, as far as administratively practicable, and subject to the other provisions of this Charter, import [from Members] and offer for sale at prices charged within such maximum margin 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.

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

Article 33
Expansion of trade by complete state monopolies of import trade

[Article 33 is not fully visible in the image.]

of imports of the product from non-Members. This result, it is felt, could not have been intended. However, in view of the doubt expressed by certain delegates regarding the effect of deleting the phrase "from Members", these words have been placed in square brackets for consideration at the Second Session.

(b) The Committee considered paragraph 5, Section A, Part II, Chapter IV of the Report of the First Session and decided that it was not practicable to write into Article 32 or 33 provisions for state monopolies corresponding to those applying to private monopolies according to Chapter VI. It was therefore decided to disregard this factor in the draft of Article 32, and to recommend the insertion of the words "public or" in paragraph 1(a) of Article 39 so as to place equivalent obligations on public and private monopolies without discrimination.

At the First Session it was decided that Article 33 should be left for consideration at a later stage. The Committee did not feel itself called upon to consider this Article. It is reproduced in square brackets above as given in the United States Draft Charter.

SECTION F. EMERGENCY PROVISIONS—CONSULTATION

Article 34
Emergency action on imports of particular products

1. If, as a result of unforeseen developments and of the effect of the obligations incurred under or pursuant to this Chapter, any product is being imported into the territory of any Member in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products (or, in the case of a product which is the subject of a concession with respect to a preference, is being imported under such conditions as to cause or threaten serious injury to producers in a territory which receives or received such preference), the Member shall be free to suspend the obligation in respect of such product in whole or in part, or to withdraw or modify the concession to the extent and for such time as may be necessary to prevent 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. In critical and exceptional circumstances such action may be taken provisionally without prior consultation, Pro-
vided that consultation shall be effected immediately following upon the taking of such action.

3. 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 sixty 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, of such substantially equivalent obligations or concessions under this Chapter the suspension of which the Organization does not disapprove. In cases of abuse the Organization may authorize an affected Member to suspend obligations or concessions in addition to those which may be substantially equivalent to the action originally taken.

Article 35
Consultation—Nullification or impairment

1. 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; and shall, in the course of such consultation, pro-

vided the other Member with such information as will enable a full and fair appraisal of the situation which is the subject of such representations.

2. If any Member should consider that any other Member is applying any measure, whether or not it conflicts with the terms of this Charter, or that any situation exists, which has the effect of nullifying or impairing any object of this Charter, the Member or Members concerned shall give sympathetic consideration to such written representations or proposals as may be made with a view to effecting a satisfactory adjustment of the matter. If no such adjustment can be effected, the matter may be referred to the Organization, which shall, after investigation, and, if necessary after consultation with the Economic and Social Council of the United Nations and any appropriate intergovernmental organizations, make appropriate recommendations to the Members concerned. The Organization, if it considers the case serious enough to justify such action, may authorize a Member or Members to suspend the application to any other Member or members of such specified obligations or concessions under this Chapter as may be appropriate in the circumstances. If such obligations or concessions are in fact suspended, any affected Member shall then be free, not later than sixty days after such action is taken, to withdraw from the Organization upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Organization.

Section G. Relations with non-members

Article 36
Contractual relations with non-members. Treatment of the trade of non-members.

tained that if action without prior consultation was permitted to a Member, immediate counter-action by other affected Members should also be permitted.

Paragraph 3
The Committee considered it desirable that the retaliatory action permissible under this paragraph should not be unnecessarily delayed. Accordingly, it suggests the shortening from sixty to thirty days of the period to be observed from the date on which written notice of the suspension of obligations or concessions is received by the Organization.

Article 35
Paragraph 1
(a) The examples of matters that may be subject to representations, enumerated in the first part of this paragraph, were added to by inclusion of the words "anti-dumping and countervailing duties" and "subsidies".

(b) One delegate reserved his position for the time being regarding the insertion of "anti-dumping and countervailing duties".

(c) A number of delegates suggested insertion of the words "without prejudicing the legitimate business interests of particular private or state trading enterprises," after "such information as will". One delegate was strongly in favour of the inclusion of these words which, he considered, expressed the intentions of the First Session (cf. page 17, Section E: 1(iv) of the Report).

(d) One delegate, supporting the remarks made by the last-mentioned delegate, declared that if the reference to the legitimate business interests of public and private enterprises were not included, he preferred restoration of the text of the First Session (deleting the words from "and shall, in the course," etc.).

Article 36
At its First Session, the Preparatory Committee decided to leave Article 36 for consideration at a later stage. The Drafting Committee did not discuss this Article.
SECTION H. GENERAL EXCEPTIONS

Article 37

General exceptions to chapter V

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised discrimination between countries where the consti- tute a means of arbitrary or unjustifiable measures:

The text of this Article, as given in the United States Draft Charter, is reproduced below for reference:

"1. No Member shall seek exclusive or preferential advantages for its trade in the territory of any non-Member which would result, directly or indirectly, in discrimination in that territory against the trade of any other Member.

2. No Member shall be a party to any agreement or other arrangement with any non-Member under which such non-Member shall be contractually entitled to any of the benefits of this Charter.

3. With regard to countries which, although eligible for membership, have not become Members or have withdrawn from the Organization, no Member shall, except with the concurrence of the Organization, apply to the trade of such countries the tariff reductions effected by such Member pursuant to Article 18. This paragraph shall become effective upon the expiration of one year from the date on which the Organization is established: Provided, That this period may be extended by the Organization for further periods not to exceed six months each.

4. Members undertake to review any international obligations they may have which would prevent them from giving full effect to paragraphs 1 and 2 of this Article and, if necessary for that purpose, to terminate such obligations either by agreement or in accordance with their terms."

Article 37

GENERAL COMMENTS

(a) Article 32 of the United States Draft Charter (corresponding to Article 37) contains the following item:

"1. Imposed in accordance with a determination or recommendation of the Organization formulated under paragraphs 2, 6 or 7 of Article 55" (the present Article 66).

The Committee considered that the articles referred to in Article 66 covered adequately the exception considered under the item quoted above and hence was of the opinion that this item should not be included in Article 37. One delegate, however, felt that deletion of this item would involve that the determination and recommendations under paragraphs 6 and 7 of Article 66 would still have to conform to the provisions of Chapter V, unless they were waived by a two-thirds majority under the provisions of paragraph 2 of Article 66. The proposed change would thus in his opinion involve a material deviation from the general opinion at the First Session and from the original text.

(b) One delegate suggested that Article 37 should contain a provision permitting a Member to prohibit the importation of any commodity, the production of which is prohibited domestically. One delegate reserved his position on item (c).

(c) As it seemed to be generally agreed that electric power should not be classified as a commodity, two delegates did not find it necessary to reserve the right for their countries to prohibit the export of electric power.

(d) One delegate maintained a suggestion by his delegation at the First Session to the effect that a paragraph should be added to permit measures “temporarily imposed to prevent, arrest or relieve conditions of social disturbance, natural calamity or other national emergencies, provided that such measures are withdrawn as soon as the said conditions cease to exist”. It was suggested that paragraph 2 (b) of Article 25 covers this point to a certain extent.

(e) One delegate suggested 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 any discrimination practiced by that Member in matters outside the purview of the Organization, pending a settlement of the issue through the United Nations. (cf. the reservation by the same delegate regarding Article 23—Boycotts).

SPECIFIC COMMENT

Sub-paragraphs (a) and (b)

One delegate pointed out that his country’s restrictions on the importation, production and sale of alcoholic beverages had as its chief object the promotion of temperance. He therefore considered that the taxation and the price policy of its state liquor and wine monopoly was covered by these sub-paragraphs.

Sub-paragraph (b)

Six delegates preferred the following wording: “necessary to protect human, animal or plant life or health.”

Sub-paragraph (c)

One delegate reserved his position on item (c).
tection of the essential security interests of a Member;

(f) Relating to the importation or exportation of gold or silver;

(g) Necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of Chapter V, such as, those relating to customs enforcement, deceptive practices, and the protection of patents, trade marks and copyrights;

(h) Relating to the products of prison labour;

(i) Imposed for the protection of national treasures of artistic, historic or archaeological value;

(j) Relating to the conservation of exhaustible natural resources if such measures are taken pursuant to international agreements or are made effective in conjunction with restrictions on domestic production or consumption; or

(k) Undertaken in pursuance of obligations under the United Nations Charter for the maintenance or restoration of international peace and security.

SECTION I. TERRITORIAL APPLICATION

Article 38

Territorial application of chapter V—Frontier traffic—Customs unions

1. The provisions of Chapter V shall apply to the customs territories of the Members. If there are two or more customs territories under the jurisdiction of any Member, each such customs territory shall be considered as though it were a separate Member for the purpose of interpreting the provisions of Chapter V.

2. The provisions of Chapter V 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, Provided that the duties and other regulations of commerce imposed by any such union in respect of trade with Members shall not on the whole be higher or more stringent than the average level of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union.

3. 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.

4. The Members recognize that there may in exceptional circumstances be justification for new preferential arrangements requiring an exception to the provisions of Chapter V. Any such exception shall conform to the criteria and procedures which may be established by the Organization under paragraph 3 of Article 66.
5. For the purpose of this Article a customs territory shall be understood to mean any territory within which separate tariffs or other regulations of commerce are maintained with respect to a substantial part of the trade of such territory. 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 by each of the members of the union to the trade of territories not included in the union.
CHAPTER VI. RESTRICTIVE BUSINESS PRACTICES

Article 39

Policy towards restrictive business practices

1. Members shall take appropriate measures, individually or through the Organization or in both ways, to prevent business practices affecting international trade which restrain competition, limit access to markets or foster monopolistic control whenever such practices have harmful effects on the expansion of production and trade and the maintenance in all countries of high levels of real income or impair any of the purposes of the Organization as set forth in Article 1.

2. Without limiting the generality of paragraph 1 of this Article, the practices listed in paragraph 3 below shall be subject to investigation in accordance with the procedure with respect to complaints provided by the relevant Articles of this Chapter, if the Organization considers them to have or to be about to have any of the harmful effects enumerated in paragraph 1 of this Article, whenever

(a) They are engaged in or made effective by one or more public or private commercial enterprises or by a combination, agreement or other arrangement between commercial enterprises, whether between private commercial enterprises, between public commercial enterprises, (i.e., trading agencies of governments or enterprises in which there is effective public control), or between private and public commercial enterprises; and

(b) Such commercial enterprises, individually or collectively, possess effective control of trade among a number of countries in one or more products.

3. The practices referred to in paragraph 2 of this Article are as follows:

(a) Fixing prices or terms or conditions to be observed in dealing with others 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 sale or purchase quotas;

(c) Discriminating against particular enterprises whether by boycott or otherwise;

(d) Limiting production or fixing production quotas;

GENERAL COMMENTS

Chapter VI

(a) A number of delegates maintained their reservation against the exclusion of services from the purview of Chapter VI. One delegate held the opinion that services fell under the terms of reference of the Preparatory Committee and that in this respect there was no necessity to request a ruling from the Economic and Social Council.

(b) Several delegates maintained the reservations which their delegations had made at the First Session regarding the compulsory registration of restrictive business practices with the Organization. One delegate maintained his reservation that the register of restrictive business practices kept by the Organization should be given some degree of publicity.

SPECIFIC COMMENTS

Article 39

Paragraph 1

A suggestion by one delegate to include the mention of economic development was met by the reference to all the purposes of the Organization which implicitly included economic development.

Paragraph 2

In the first sentence the words "in accordance with the procedure with respect to complaints provided by the relevant articles of this Chapter" were inserted in order to make it clear that the investigation procedure provided for in Article 40 should only follow upon a specific complaint in accordance with Article 40, and not as a consequence of studies undertaken by the Organization in accordance with Article 41. The Committee was not certain whether this addition did not constitute a substantive change, by limiting the authority of the Organization to investigate restrictive business practices on its own initiative. The Committee decided to include the sentence but to refer the question of the substantive change to the Second Session.

Paragraph 2(a)

(a) The term "public control" was substituted for the term "government control" to show that enterprises under the control of subordinate public bodies, such as municipalities and others, also fall under this sub-paragraph.

(b) The words "public or" were inserted before "private commercial enterprises" to avoid any discrimination in the substance of the obligations placed on the two types of enterprise. It was not found practicable to draft Article 32 and 33 in such a way as to include the obligations undertaken by state monopolies regarding Restrictive Business Practices. One delegate reserved his position on this insertion.

(c) Two delegates reserved their position with regard to the inclusion of public commercial enterprises.

(d) One delegate considered that the changes in paragraph 2 constitute a substantive amendment and preferred to express his final position in this matter at the Second Session.

Paragraph 3(c)

This sub-paragraph was reworded as it was considered that boycotts constituted not a specific practice but only a special case of discrimination.
(e) Suppressing the application or development of technology or invention, whether patented or unpatented;

(f) Extending the use of rights under patents, trade marks or copyrights to matters not properly within the scope of the authorized grant, or to products or conditions of production, use or sale which are not the immediate subjects of the authorized grant.

Article 40
Procedure with respect to complaints and conferences

1. The Organization shall

(a) arrange, if it considers such action to be justified, for particular Members to take part in a conference requested by any Member which considers that any particular practices exist which have or are about to have the effect described in paragraph 1 of Article 39;

(b) consider each written complaint submitted by any Member or submitted with the authorization of a Member by any affected person, organization or business entity within that Member's jurisdiction, claiming that particular practices exist which have or are about to have the effect described in paragraph 1 of Article 39, and prescribe the minimum information to be included in such complaints;

(c) consider and request each Member concerned to furnish such information as the Organization may deem necessary including, information or data from commercial enterprises within its jurisdiction, and then determine whether further investigation is justified;

(d) if it considers that further investigation is justified, notify all Members of each such complaint, request the complainant or any member to provide such information relevant to the complaint as the Organization may deem necessary and conduct or arrange for hearings provided that any Member and the parties alleged to have engaged in the practice shall have the opportunity to be heard at such hearings.

(e) review all information available and determine whether the practices in question have or are about to have the effect described in paragraph 1 of Article 39.

2. The Organization shall

(a) report fully to all Members its determination and the reasons therefor; if it finds that the practices have had [or are about to have] the effect described in paragraph 1 of Article 39, it shall request each Member concerned to take every possible action to prevent the continuance or recurrence of the practices, and may recommend to the Members concerned remedial measures to be carried out in accordance with their respective laws and procedures;

(b) request all Members concerned to report fully the action they have taken to achieve these results;

(c) prepare and publish, as soon as possible

decided to refer the issue to the Second Session. 

(b) The Committee wished to state that in its opinion it would be one of the first tasks of the Organization, once a complaint had been received, to approach for information those Members within whose jurisdiction the person or business entity alleged to be engaged in the restrictive business practice was operating.

Paragraph 1(e)
The Committee inserted the words "or are about to have" in order to make the text consistent with the wording of paragraph 2 of Article 39.

Paragraph 2(c)
The words "provisionally or finally closed" were substituted for the word "completed" to make it clear that the Organization would not always be obliged to complete its enquiries, but if its findings so warranted, it could temporarily discontinue investigations.
after enquiries have been provisionally or finally closed, reports on all complaints dealt with under paragraph 1 (d) of this Article, showing fully its decisions, findings or other conclusions, the reasons therefor and any action which the Organization has recommended to the Members concerned; Provided, that

(i) publication of such reports or any portion thereof may be withheld if it deems this course justified; and

(ii) the Organization shall not, if a Member so requests, disclose confidential information furnished by that Member which would materially damage the legitimate business interests of a commercial enterprise.

(d) report to all Members and make public if it deems desirable, the action which has been taken by the Members concerned to realize the purposes described in paragraph 2 (a) of this Article.

Article 41

Studies relating to restrictive business practices

1. The Organization may

(a) conduct studies, either on its own initiative or at the request of any Member, or of the United Nations, or of any specialized agency brought into relationship with the United Nations, relating to

(i) types of restrictive business practices in international trade;

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

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

2. The Organization may

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

(b) arrange conferences for purposes of general consultation on any matters relating to restrictive business practices.

Article 42

Obligation of Members

1. In order to implement the preceding Articles of this Chapter, each Member shall

(a) take all possible steps by legislation or otherwise to ensure that private and public commercial enterprises within its jurisdiction do not engage in practices which have the effect described in paragraph 1 of Article 39;

(b) take fullest account of the Organization's determinations, requests and recommendations made under paragraph 2 (a) of Article 40 and determined appropriate action in accordance with its system of law and economic organization to prevent within its jurisdiction the continuance or recurrence of any practices which the Organization find to have had [or to be about to have] the effect described in paragraph 1 of Article 39.

2. Each Member Shall

(a) establish procedures to deal with complaints, conduct investigations, prepare information and reports requested by the Organization and generally assist in preventing practices which have the effect described in paragraph 1 of Article 39;

(b) conduct such investigations as may be necessary and practicable to secure information requested by the Organization or to prevent practices which have the effect described in paragraph 1 of Article 39;

(c) furnish to the Organization, as promptly as possible and to the fullest extent practicable, such information as is requested by the Organization under paragraphs 1 (c), (d) and 2 (b) of Article 40 and under paragraph 1 (a) of Article 41 provided that the Member

(i) may withhold confidential information relating to its national security; or

(ii) on proper notification to the Organization in the third line and suggested replacing it by the words "in deciding as to".

Paragraph 2(c)(ii)

(a) This clause was inserted to provide for the adequate protection of legitimate business interests of commercial enterprises against damaging disclosures. Upon the motion of one delegate, Committee III of the First Session in its last meeting had agreed to incorporate such a pro-
zation, may withhold information which is not essential to the Organization in undertaking an adequate investigation and which, if disclosed, would materially 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;

(d) report, as requested by the Organization under paragraph 2 (b) of Article 40, the action taken, independently or in concert with other Members, to implement recommendations made by the Organization under paragraph 2 (a) of Article 40, and, in cases in which no action is taken, to explain to the Organization the reasons therefor and discuss the matter further with the Organization if requested to do so;

(e) take part in conferences upon the request of the Organization in accordance with paragraph 1 (a) of Article 40 and paragraph 2 (b) of Article 41.

Article 43

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 44

Continued effectiveness of domestic measures against restrictive business practices

Any act or omission to act on the part of the Organization shall not preclude any Member from enforcing any national stature or decree directed towards preventing monopoly or restraint of trade.

Article 45

Exceptions to the Provisions of this Chapter

1. The obligations in this Chapter shall not apply to

(a) inter-governmental commodity arrangements meeting the requirements of Chapter VII;

(b) the international arrangements excepted in Article 59.

2. Notwithstanding the foregoing paragraph, the Organization may make recommendations to Members and to appropriate inter-governmental organizations concerning any features of the arrangements referred to in paragraph 1 (b) of this Article which may have the effect described in paragraph 1 of Article 39.
CHAPTER VII.
INTER-GOVERNMENTAL
COMMODITY ARRANGEMENTS

SECTION A—INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS IN GENERAL

Article 46

Difficulties relating to primary commodities

The Members recognize that the relationship between production and consumption of some primary commodities may present special difficulties. These special difficulties are different in character from those which manufactured goods present generally. They arise out of such conditions as the disequilibrium between production and consumption, the accumulation of burdensome stocks and pronounced fluctuations in prices. They may have serious adverse effects on the interests of producers and consumers, as well as widespread repercussions jeopardizing general policies of economic expansion.

Article 47

Objectives of inter-governmental commodity arrangements

Inter-governmental commodity arrangements may be employed to enable countries to overcome the special difficulties referred to in Article 46 without resorting to action inconsistent with the purposes of this Charter, by achieving the following objectives:

(a) to prevent or alleviate the serious economic problems which may arise when production adjustments cannot be effected by the free play of market forces 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 will 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 above and below the level which expresses the long term equilibrium between the forces of supply and demand [in order to achieve a reasonable degree of stability on the basis of remunerative prices to efficient producers without unfairness to consumers];

(d) to maintain and develop the natural resources of the world and protect them from unnecessary exhaustion; and

(e) to provide for expansion in the production of a primary commodity which is in

GENERAL COMMENTS

(a) When Article 36 is dealt with, the provisions of Chapter VII, which would allow non-Members to participate in commodity arrangements, will need to be taken into consideration.

(b) One delegate reserved the position of his Government on the whole of Chapter VII insofar as its operation might interfere with the production of primary commodities for home consumption.

(c) In the Report of the First Session (Part II, Chapter V, Section A, paragraph 3, the Committee was requested to examine the use of the terms "primary", "agricultural", "mineral", "commodity" and "product" throughout the Charter, in order to ensure uniformity and consistency in their application. The Committee has found that the terms were properly used throughout the Charter except in some cases where amendments have been made. A further note in this respect will be found in the commentary to Article 60.

(d) Part II, Chapter V, Section D, paragraph 5, of the Report of the First Session referred to the Committee suggestions concerning the allocation of certain functions among the various organs of the Organization. These suggestions were taken into account in the drafting of Article 77 (Functions of the Commodity Commission). However, it was not felt necessary to specify in great detail the allocation of functions as given on page 21 of the Report.

SPECIFIC COMMENTS

Article 47

Sub-paragraph (c)

One delegate stressed that the statement of objectives of commodity arrangements should include provision for remunerative as well as stable prices especially in view of the fact that in certain countries, due to the lack of alternative employment, production of a commodity continues even when not profitable. It was decided to put an amendment proposed by this delegate between square brackets as an addition and to include in the amendment wording safeguarding the interests of consumers.

Sub-paragraphs (d) and (e)

One delegate doubted the necessity of including sub-paragraphs (d) and (e), because they pertain exclusively to shortage situations. With reference to sub-paragraph (d), he was of the opinion that as conservation agreements were by their nature regulatory they would have to conform to the principles governing regulatory agreements; however, the statement of the circumstances governing the use of regulatory agreements formulated in Chapter VII did not appear applicable to conservation agreements, because it required the presence of a burdensome surplus or widespread unemployment. As to sub-paragraph (e), it was difficult to devise an objective way of determining when a commodity was in such short supply as to prejudice seriously the interests of consumers.
such short supply as seriously to prejudice the interests of consumers.

Article 48
Special commodity studies

1. Any Member substantially interested in the production, consumption or trade of a particular primary commodity shall be entitled, if it considers that special difficulties exist or are expected to arise regarding the commodity, to ask that a study of that commodity be made.

2. Unless it resolves that a prima facie case has not been established, the Organization shall promptly invite the Members substantially interested in the production and consumption of or trade in the commodity to appoint representatives to a Study Group to make a study of the commodity. Non-Members having a similar interest may also be invited.

3. The Study Group shall, in the light of an investigation of the root causes of the problem, promptly report its findings regarding the production, consumption and trade situation of the commodity. If the Study Group finds that special difficulties exist or are expected to arise it shall make recommendations to the Organization as to how best to deal with such difficulties. The Organization shall transmit promptly to the Members any such findings and recommendations.

Article 49
Commodity conferences

1. On the basis of the recommendations of the Study Group or on the basis of information about the root causes of the problems agreed to be adequate by the Members substantially interested in the production, consumption or trade of a particular primary commodity, the Organization shall promptly at the request of a Member having a substantial interest, or may, on its own initiative, convene an inter-governmental conference for the purpose of discussing measures designed to meet the special difficulties which have been found to exist or are expected to arise.

2. Any Member having a substantial interest in the production and consumption of or trade in the commodity shall be entitled to participate in the Conference, and non-Members having a similar interest may be invited by the Organization to participate.

Article 50
Relations with inter-governmental organizations

1. Competent inter-governmental organizations, such as the Food and Agriculture Organization, shall be entitled:

(a) to submit to the Organization any relevant study of a primary commodity;

(b) to ask that a study of a primary commodity be made.

2. The Organization may request any inter-governmental organization which it deems to be competent, to attend or take part in the work of a Study Group or of a Commodity Conference.

Article 51
General principles of inter-governmental commodity arrangements

Members undertake to adhere to the following principles governing the operation of all types of inter-governmental commodity arrangements:

(a) such arrangements shall be open initially to participation by any Member on terms no less favourable than those accorded to any other country and thereafter upon such terms as may be approved by the Organization;
(b) non-Members may be invited by the Organization to participate in such arrangements and the provisions of sub-paragraph (a) of this Article applying to Members shall apply to any non-Member so invited;

(c) under such arrangements participating countries shall arrange for equitable treatment as between non-participating Members and participating countries affording advantages commensurate with obligations accepted by non-participating Members;

(d) participating countries shall, in matters the subject of such arrangements, afford non-participating Members treatment no less favourable than that accorded to any non-Member which does not participate in the arrangement;

(e) such arrangements 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;

(f) such arrangements shall provide, where practicable, for measures designed to expand world consumption of the commodity;

(g) full publicity shall be given to any intergovernmental commodity arrangement 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 arrangement and, periodically, to the operation of the arrangement.

Sub-paragraph (g)
After some discussion the Committee agreed to maintain the words “full publicity” on the understanding that the application of this requirement to any “proposed” arrangement would not entail publicity in regard to discussions and verbatim records before the arrangement began operating. It was also agreed to stipulate that the operation of the agreement should be given publicity periodically.

Article 52
Sub-paragraph (a) and (b)
(a) It was felt that the phrase “because characteristically, in the case of the primary commodity concerned, a substantial reduction in price does not lead to a significant . . .” is only to be considered as a descriptive one and is not to be interpreted in the sense that a substantial reduction in price would be regarded as a pre-requisite for the adoption or extension of a regulatory agreement.

(b) One delegate felt that the problems of countries with a small volume of international trade as distinct from those of small producers did not receive sufficient attention in the text as drafted at the First Session; it is particularly in such countries that hardships to a substantial part of the economy are liable to hamper the well-being of the country, even when there are no small producers. He therefore suggested the following amendment to paragraph 1 of the text drafted at the First Session:

After “serious hardship to producers” delete “among whom are small producers who account for a substantial portion of the total output” and substitute “or affecting the economy of one or more of the Member countries, which jointly or individually represent a substantial portion of the total output; or”.

It was the general opinion of the Drafting Committee that, as the hardships this proposal was intended to cover would be the outcome of unemployment or under-employment, they were in fact covered by sub-paragraph (b) of Article 52.

Sub-paragraph (b)
It was decided to provide for the possible use of regulatory agreements not only when unemployment but also when under-employment exists.
substantial quantity do not afford alternative employment opportunities for the workers involved; or

(c) the Organization finds that, for a commodity other than a primary commodity, in addition to the circumstances set forth in either (a) or (b) above, exceptional circumstances justify such action. Agreements under this sub-paragraph shall be governed not only by the principles set forth in this Chapter but also by any other requirements which the Organization may establish.

Article 53

Additional principles governing regulatory agreements

Members undertake to adhere to the following principles governing regulatory agreements in addition to those stated in Article 51:

Sub-paragraph (c)

The drafting change contained in sub-paragraph (c) was based on the consideration that commodity arrangements concerning non-primary products should not be easier to conclude than those for primary commodities. The text as drafted at the First Session was ambiguous and might have been interpreted to mean that arrangements for commodities other than primary commodities could be concluded without a burdensome surplus or widespread unemployment being in existence or expected.

Suggested Additional Paragraph:

The representative of the Food and Agricultural Organization raised the question whether the language of paragraphs 1 and 2 of Article 52 covers commodity arrangements which might be desired in order to promote price stability and expanded production and consumption, as recommended for basic foodstuffs in the Report of the Preparatory Commission of the Food and Agricultural Organization on World Food Proposals. If not, he suggested the following changes in Article 52:

Change the present sub-paragraph (c) to sub-paragraph (d) and add a new paragraph (c) reading as follows:

"(c) It is necessary to enable the producers and the governments concerned to carry forward concerted programmes for the expansion of aggregate world production and consumption of a primary commodity or".

It was recognized that the matter was one for consideration at the Second Session.

Article 53

GENERAL COMMENTS

There has been a change in the arrangement of the paragraphs from the text drafted at the First Session—paragraph 1 becomes sub-paragraph (a), sub-paragraph (b) contains the substance of former paragraph 4, sub-paragraph (c) is the reformulation of paragraph 4 of Article 51 and sub-paragraphs (d) and (e) are the former paragraphs 5 and 6, respectively.

(a) Members agree not to enter into any new regulatory agreement unless it has been recommended by a conference called in accordance with Article 49. Nevertheless, Members substantially interested in the production and consumption of, or trade in, a particular commodity may proceed by direct negotiation to the conclusion of an agreement, provided that it conforms to the other provisions of this Chapter, if there has been unreasonable delay in the proceedings of the Study Group or of the Commodity Conference;

(b) such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at reasonable [and stable] prices [remunerative to efficient producers];

(c) under such agreements participating countries which are largely dependent for consumption on imports of the commodity in

SPECIFIC COMMENTS

Sub-paragraph (b)

One delegate submitted an amendment which it was decided to refer to the Second Session, inserting it between square brackets. Another delegate asked that a "reasonable price" should not be a price which does not cover the costs of production.

Sub-paragraph (c)

(a) The transfer of this sub-paragraph from Article 51 was motivated by the fact that the equality of producers and consumers in representation and in voting was of importance only in regulatory agreements. One delegate reserved his position concerning this transfer and two other delegates were of the opinion that the whole text of the sub-paragraph should be within square brackets because the transfer from Article 51 constituted a substantive change.

(b) There was substantial agreement in favour of clarifying the text of that part of sub-paragraph (c) which pertains to the position of countries whose foremost interest is in the production and consumption of a commodity, but not in its trade. It was thought that in this respect the text drafted at the First Session was subject to misinterpretation and a new text was devised in order to avoid the possibility of the existence of a third group of countries—the producers-consumers—who in matters of voting might upset the balance in favour of either importers or exporters. Under the present wording, the producers who at the same time are consumers may in matters of representation and voting be included according to their interests with either importers or exporters. One delegate expressed doubt as to the effect of the insertion of the words: "according to its interests in the circumstances" and "within one or the other category without altering the equality between the two", and suggested that they be put between square brackets.

(c) For sub-paragraph (c) one delegate proposed the text of sub-paragraph (4) of Article 51 of the text drafted at the First Session:
volved shall, in determinations made relating to substantive matters, have together a voice equal to that of those countries largely interested in obtaining export markets for the commodity, provided that any country which is largely interested in the commodity but which does not fall precisely under either of the above categories, shall, according to its interests in the circumstances, have an appropriate voice within one or the other category without altering the equality between the two;

(d) such agreements shall, with due regard to the need during a period of change for preventing serious economic and social dislocation and to the position of producing areas which may be suffering from abnormal and temporary disabilities, make appropriate provision to afford increasing opportunities for satisfying world requirements from sources from which such requirements can be supplied in the most effective and economic manner;

(e) participating countries shall formulate and adopt a programme of economic adjustment believed to be adequate to ensure substantial progress toward solution of the problem within the time limits of the agreement.

Article 54
Administration of regulatory agreements

1. Each regulatory agreement shall provide for the establishment of a governing body, herein referred to as a Commodity Council.

2. Each of the countries participating in an agreement shall be entitled to have one representative on the Commodity Council. These representatives alone shall have the right to vote. Their voting shall be determined in such a way as to conform with the provisions of sub-paragraph (c) of Article 55.

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 have a non-voting chairman who, if the Council so requests, shall 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, provided that they are not found by the Organization to be inconsistent with the principles and provisions of this Charter.

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 specify 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.

Article 55
Provision for initial terms, review and renewal of regulatory agreements

No regulatory agreement shall remain in force for more than five years, unless renewed, toward solution of the problem covered cases where the agreement impeded a deterioration of the situation.

Article 54
Paragraph 6

One delegate suggested a change in paragraph 6 in order to avoid the necessity for approval by the Organization of every detailed rule of procedure adopted by the Commodity Council. It was agreed that an overall approval by the Organization was sufficient and the text was changed accordingly to allow rules of procedure and regulations adopted by the Commodity Council to stand unless the Organization decided that they conflicted with the provisions of the Charter.

Article 55

On the suggestion of one delegate, it was agreed to make explicit provision for the withdrawal of Members from commodity arrangements. It was also agreed to add a reference to the possibility of terminating an agreement by mutual consent, even though the arrangement had conformed to the principles of Chapter VII.
and no renewal shall be for a longer period than five years. Renewal and termination of such agreements shall be subject to the procedures established therein and renewed agreements shall conform to the principles of this Chapter. Regulatory agreements shall also include provision for withdrawal of any party. Periodically, at intervals no 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 regulatory agreement shall provide that if its operation has failed substantially to conform to the principles laid down in this Chapter, participating countries shall revise the agreement to conform to the principles, or shall terminate it. When an agreement is terminated, the Organization shall take charge of archives and statistical material of the Commodity Council.

Article 56
Settlement of disputes

Any question or difference concerning the interpretation of the provisions of a regulatory agreement or arising out of its operation shall be discussed originally by the Commodity Council. In the absence of agreement, the question shall be referred to the Commodity Commission for examination and recommendation to the Executive Board. The Executive Board shall then issue a ruling in pursuance of the provisions of Article 86.

SECTION C—MISCELLANEOUS PROVISIONS

Article 57
Obligations of members regarding existing and proposed commodity arrangements

1. Members shall transmit to the Organization the full text of each inter-governmental commodity arrangement in which they are participating at the time of the coming into force of their obligations under this Charter. Members shall also transmit to the Organization appropriate information regarding the formulation, provisions and operation of such arrangements. Members shall conform with the decisions made by the Organization regarding their continued participation in any such inter-governmental commodity arrangement which, after review by the Organization, shall have been found to be inconsistent with the intentions of this Chapter.

2. Members shall transmit to the Organization appropriate information regarding any negotiations, looking to the conclusion of an inter-governmental commodity arrangement, in which they are participating at the time of the coming into force of their obligations under this Charter. Members shall also conform with decisions made by the Organization regarding their continued participation in any such negotiations. The Organization may dispense with the requirement of a Study Group or a Commodity Conference, if it finds them unnecessary in the light of the negotiations.

Article 58
General undertaking by Members

Members, including Members not parties to a particular commodity arrangement, shall give the most favourable possible consideration to any recommendation by a Commodity Council for expanding consumption of the commodity in question.

Article 59
Exceptions to provisions relating to inter-governmental commodity arrangements

The provisions of Chapter VII shall not apply:
(a) to inter-governmental commodity arrangements which relate solely to the equitable distribution of commodities in short supply, or to those provisions of inter-governmental commodity arrangements which appropriately relate to the protection of public morals or the protection of human, animal or plant life or health; provided, that such arrangements are not used to accomplish results inconsistent with the objectives of Chapter VI or Chapter VII. Members shall not participate in such arrangements if they involve the regulation of production, trade or prices, unless authorized or provided for by a multilateral convention subscribed to by a majority of the countries affected or unless operated under the Organization;
(b) to international fisheries or wildlife conservation agreements with the sole ob-
jective of conserving and developing these resources or to agreements relating to the purchase and sale of a commodity falling under Section E of Chapter V; and

(c) to arrangements relating to fissionable materials, to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on for the purpose of supplying a military establishment, or, in the time of war or other emergency in international relations, to the protection of the essential security interests of a Member.

Article 60
Definitions

1. For the purposes of this Chapter, the term “primary commodity” means any product of farm, forest or fishery, or any mineral, which enters world trade in substantial volume in a form customarily called primary, and may include such a product on which minor processing has been performed in preparation for export. The term may also cover a group of commodities, of which one is a primary commodity as defined above and the others are commodities (whether primary or non-primary) which are so closely related to the other commodities in the group that they can conveniently be dealt with in a single arrangement.

2. For the purposes of this Chapter, the term “Member” or “non-Member” shall be taken to mean a Member or 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 associated territories or, where it is so desired, separate representation for the territories mainly interested in export and separate representation for the territories mainly interested in import.

3. A regulatory agreement is an inter-governmental commodity arrangement involving regulation of the production, export or import of a commodity or regulation of prices.

Paragraph 1

(a) Acting upon the instructions of the First Session, the Committee made more specific the definition of a primary commodity, and particularly to make clearer the inclusion of products closely related to primary commodities within the scope of commodity arrangements.

(b) One delegate reserved his position regarding the inclusion of fishery products.

Paragraph 3

It was decided to delete the definition of inter-governmental commodity arrangements because the statement contained in paragraph 3 of the text drafted at the First Session was too broad and furthermore the nature of inter-governmental commodity agreements was implicit in Chapter VII.
CHAPTER VIII. ORGANIZATION

SECTION A—FUNCTIONS AND STRUCTURE OF THE ORGANIZATION

Article 61

Functions

In addition to the functions provided for elsewhere in this Charter, the Organization shall have the following functions:

(a) to collect, analyze 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 facilitate consultation among Members on all questions relating to the provisions of this Charter and to provide for the settlement of disputes growing out of the provisions of the Charter;

(c) to make recommendations for, and promote international agreement on measures designed to improve the bases of trade and to assure just and equitable treatment for the enterprises, skills, capital, arts and technology brought from one country to another, including agreement on the treatment of foreign nationals and enterprises, on the treatment of commercial travellers, of commercial arbitration and on the avoidance of double taxation;

(d) generally to consult with and make recommendations and, as necessary, furnish advice and assistance to Members regarding any matter relating to the purposes or the operation of this Charter, and to perform any other function appropriate to the purposes and provisions of this Charter;

(e) to co-operate with the United Nations and with other inter-governmental organizations for the purpose of furthering the attainment, with an economy of effort, of the economic and social objectives of the United Nations and the restoration and maintenance of international peace and security.

Article 62

Structure

The Organization shall have as its principal organs a Conference, an Executive Board, Commissions as established under Article 72, and a Secretariat.

SECTION B—THE CONFERENCE

Article 63

Membership

1. The Conference shall consist of the representatives of the Members of the Organization.

2. Each Member shall have one representative and may appoint alternates and advisers to its representative to the Conference.

3. No representative to the Conference may represent more than one Member.

Article 64

Voting

1. Each Member shall have one vote in the Conference.

2. Except as may be otherwise provided for in this Charter, decisions of the Conference shall be taken by a majority of the Members present and voting.

GENERAL COMMENTS

The First Session instructed the Drafting Committee to examine Article 61 with a view to insuring that its provisions were consistent with other provisions of the Charter, especially with those relating to Employment Policy and Industrial Development. The Committee, after thorough discussion of all relevant issues decided against the course of spelling out specifically all the functions mentioned elsewhere in the Charter.

Article 64

(a) The First Session, referring to its discussions on the subjects of Voting in the Conference and membership of the Executive Board, instructed the Committee, “insofar as it is able to do so within its terms of reference,” to formulate alternative schemes, taking account of the suggestions for a system of weighted voting and for provisions for permanent seats on the Executive Board.

(b) The Drafting Committee referred the issue of membership of the Executive Board and voting in the Conference to its Administrative Subcommittee, which discussed the issue of weighted voting without arriving at any final conclusions. In this respect reference is made to the Report of the Administrative Sub-Committee which appears as Annexure B to this Report.

(c) One delegate submitted a formula on weighted voting and a note on two-thirds majorities, which are attached to the Report of the Administrative Sub-Committee as Appendices I, II, XI and XII.

(d) One delegate pointing out that any modification of paragraph 2 would involve a change in substance, directed the attention of the Committee to a discrepancy in voting procedure; whereas the Charter calls for a two-thirds vote on procedural questions such as in paragraph 3 of Article 66, the most important decisions on substance are the subject of a simple majority vote. He suggested that the attention of the Second Session be drawn to this anomaly and recorded his reservation that the text should be changed in such a manner as to call for a two-third majority vote on all major substantive issues.
Article 65

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 adopt its own rules of procedure. It shall annually elect its President and other officers.

Article 66

Powers and duties

1. The Conference shall have final authority to determine the policies of the Organization. It may make recommendations to the Members and to other international organizations regarding any matter pertaining to the purposes of this Charter.

2. The Conference may delegate to the Executive Board authority to exercise any of the powers or perform any of the duties of the Organization, except such specific powers and duties as are expressly conferred or imposed upon the Conference under this Charter.

3. The Conference may, by the affirmative votes of two-thirds of the Members of the Organization, determine criteria and set up procedures, including voting procedures, for waiving, in exceptional circumstances, obligations of Members undertaken pursuant to this Charter.

4. The Conference shall establish procedures for making the determinations provided for in Article 30 and in Article 52, where-

by any such determinations shall be made through the Organization by consultation among the Members substantially interested in the product concerned.

5. The Conference shall establish procedures for making the determinations, decisions and recommendations provided for in paragraph 3 (c) and (d) of Article 26, paragraph 1 (e), (i) and paragraph 2 of Article 28, paragraph 2 of Article 34 and Article 35.

6. The Conference may prepare or sponsor agreements with respect to any matter within the competence of the Organization and by the affirmative votes of two-thirds of the Members present and voting recommend such agreements for acceptance. Each Member shall within a period specified by the Conference notify the Director-General of its acceptance or, in the case of non-acceptance, shall furnish a statement of the reasons therefor.

7. The Conference shall approve the budget of the Organization, and shall apportion the expenditure of the Organization among the Members.

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

SECTION C—TARIFF COMMITTEE

Article 67

Tariff Committee

1. There shall be a Tariff Committee which shall act on behalf of the Organization in the making of recommendations and determinations pursuant to paragraph 3 of Article 24.

Paragraph 7

One delegate suggested to add the following sentence: "No one Member shall be required to pay more than one-third of the total expenses of the Organization for any given budgetary period." Several delegates agreed with the principle incorporated in this amendment. The Committee noted the reference in the report of the First Session which suggested that apportionment of expenses should follow the general principles adopted by the United Nations.

Three delegates considered that no rigid maximum should be laid down in the Charter for the contribution of any Member.

Article 67

The Committee deleted the provision that the functions of the Tariff Committee should be transferred to the Conference, because it was of the opinion that membership of the Tariff Committee should be confined to those Members of the Organization which had carried out the obligations under Article 24.
2. The Committee shall consist originally of those Members of the Organization which shall have made effective the General Agreement on Tariffs and Trade dated ..., 194... Any other Member of the Organization shall be a member of the Committee when, in the judgment of the Committee, that member shall have completed negotiations pursuant to paragraph 1 of Article 24 comparable in scope or effect to those completed by the original members of the Committee.

3. Each member of the Committee shall have one vote.*

4. Decisions of the Committee pursuant to paragraphs 1 and 2 of this Article shall be taken by a two-thirds majority of its members and other decisions by a simple majority.

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

SECTION D—EXECUTIVE BOARD

Article 68*

Membership

1. The Executive Board shall consist of fifteen Members of the Organization elected by the Conference.

2. Subject to the provisions of paragraph (3) one-third of the members of the Executive Board shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

3. At the first election members of the Executive Board shall be chosen. The term of office of five members shall expire at the end of one year and of five other members at the end of two years, in accordance with arrangements made by the Conference.

4. Each member of the Executive Board shall have one representative and may appoint alternates and advisers to its representative.

Article 69

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 members present and voting.

Article 70

Sessions, procedure and officers

1. The Executive Board shall adopt its own rules of procedure, including rules concerning the convening of its sessions.

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, as such, shall be entitled to participate, without the right to vote, in the deliberations of the Conference.

4. Any Member of the Organization which is not a member of the Executive Board, shall be invited to send a representative to any discussion by the Board of a matter of particular and substantial concern to that Member. Such representative shall, for the purpose of such discussion, have all the rights of members of the Board except the right to vote.

Article 71

Powers and duties

1. The Executive Board shall be responsible for the execution of the policies of the Organization and shall exercise the powers delegated to it and perform the duties assigned to it by the Conference. It shall supervise the first alternative of the Report of the First Session in square brackets and to attach as further appendices to the Administrative Sub-Committee's Report the second, third and fourth alternatives of the text of the First Session and one delegate's paper on the question of two-third majorities.

Article 70

Paragraph 1

The Committee draws the attention of the Second Session to the possible desirability of providing for the manner in which the functions of the Executive Board will be exercised while the Board is not in session.

Article 71

Paragraph 1

The Committee is of the opinion that the last sentence will be redundant if the Second Session should decide to include provision for a Commission for industrial development in the Charter.
activities of the Commissions provided for in this Charter and shall take such action upon their recommendations as it may deem appropriate. It shall provide adequate machinery to review the work of the Organization relating to industrialization and general economic development.

2. The Executive Board may make recommendations to the Conference, to the Members of the Organization, or to other international organizations, on any subject falling within the scope of this Charter, and shall prepare the preliminary agenda of the Conference.

3. The Executive Board may recommend to the Conference the admission of new Members of the Organization.

SECTION E—COMMISSIONS

Article 72

Establishment

The Conference shall establish a Commission on Commercial Policy, a Commission on Business Practices and a Commodity Commission and may establish such other Commissions as may be required. The commissions shall be responsible to the Executive Board.

Article 73

Composition and procedure

1. Commissions shall be composed of persons chosen by the Executive Board and qualified by training or experience to carry out the functions of the Commissions in accordance with the purposes of this Charter.

2. The number of members of each Commission and the conditions of service of the members of each Commission shall be determined in accordance with regulations prescribed by the Conference.

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

4. The Chairman of each Commission shall be entitled to participate, without the right to vote, in the deliberations of the Executive Board and of the Conference.

5. Pursuant to agreements under paragraph 2 of Article 81, the Organization may make arrangements for representatives of other inter-governmental organizations having a special interest in the activities of any of the Commissions to participate in the work of such Commissions.

Article 74

General functions

The commissions shall perform such functions as the Conference or the Executive Board may assign to them, including such functions as the Executive Board may deem appropriate in connection with the settlement of disputes. The functions of the Commission on Commercial Policy, the Commission on Business Practices and the Commodity Commission shall include those specified in Articles 75, 76 and 77, respectively. The commissions shall consult with each other as necessary for the exercise of their functions.

SPECIFIC COMMENTS

Paragraph 5

Two delegates felt that this provision was redundant in view of provisions of Article 81.

GENERAL COMMENT TO ARTICLES 74 TO 77, INCLUSIVE

1. The First Session instructed the Committee to prepare appropriate drafts covering the functions of the Commissions on Commercial Policy, Business Practices and Commodities.

Article 74

The Committee felt that the Commissions should be authorized to consult with each other on matters falling within the purview of two or more commissions and, consequently, added a sentence to this effect in the text of Article 74.
Article 75

Functions of the Commission on Commercial Policy

The Commission on Commercial Policy shall have the following functions:
(a) to advise and make recommendations to the Executive Board on all matters falling within the scope of Chapter V and regarding the commercial policy aspects of proposals involving the exercise by the Organization of its functions under this Charter; and
(b) to develop and to recommend to the Executive Board programmes designed to further the objectives of this Charter in the general field of commercial policy.

Article 76

Functions of the Commission on Business Practices

The Commission on Business Practices shall have the following functions:
(a) to conduct studies in the field of Restrictive Business Practices, as provided for in paragraph (a) of Article 41; and
(b) to advise and make recommendations to the Executive Board on all matters falling within the scope of Chapter VI and regarding the exercise of the functions of the Organization under this Charter, insofar as they relate to Restrictive Business Practices.

Article 77

Functions of the Commodity Commission

The Commodity Commission shall have the following functions:
(a) to study commodity problems and proposals for dealing with them and to prepare the reviews called for in Article 55; and
(b) to advise and make recommendations to the Executive Board on all matters falling within the scope of Chapter VII and those arising from the provisions of paragraph 4 of Article 30.

SECTION F—THE SECRETARIAT

Article 78

Composition

1. The Secretariat shall consist of a Director-General and such staff as may be required.
2. The Director-General shall have authority to appoint Deputy Directors-General in accordance with regulations approved by the Conference.

Article 79

The Director-General

1. The Director-General shall be appointed by the Conference upon the recommendation of the Executive Board. The powers, duties, terms and conditions of office of the Director-General shall be in accordance with regulations approved by the Conference. He shall be the chief administrative officer of the Organization, and 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 Conference, of the Executive Board, of the Commission and of the committees of the Organization. The Director-General may initiate proposals for the consideration of any organ of the Organization. He shall present through the Executive Board an annual report to the Conference on the work of the Organization and shall in consultation with the Executive Board prepare the budget of the Organization for submission to the Conference.

Article 80

Employment of staff

1. The Director-General shall appoint the staff of the Secretariat and fix its duties and terms and conditions of service in accordance with regulations approved by the Conference. The paramount consideration in the employment 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.
2. The conditions of service, such as the provisions governing qualifications, salary, tenure and retirement of members of the Secretariat shall be fixed, so far as practicable, in conformity with those for members of the Secretariat of the United Nations and of other specified agencies.

SECTION G—MISCELLANEOUS PROVISIONS

Article 81

Relations with other organizations

1. The Organization shall be brought into relationship with the United Nations as soon and concluded by the Director-General. One delegate expressed the opposite view pointing out the need for clear designation which official or organ of the International Trade Organization would be competent to represent the Organization in such proceedings.
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 through agreement with the United Nations under Article 63 of the Charter of the United Nations, which agreement shall be concluded by the Director-General and approved by the Conference. The agreement shall provide for effective cooperation between the two Organizations in the pursuit of their common purposes, and at the same time shall recognize the competence of the Organization within its jurisdiction as defined in this Charter. The Conference may adjust the provisions of this Charter to conform to any such agreement provided such adjustments do not involve new obligations on the part of Members.

2. The Organization shall cooperate with the other inter-governmental organizations having related interests and activities. Arrangements for cooperation with such organizations may be made by the Executive Board. Effective working relationships with such organizations, which may include the establishment of joint committees or provision for reciprocal representation at meetings or such other measures as may be necessary to assure effective cooperation, may be established by the Director-General.

3. The Organization may make suitable arrangements for consultation and cooperation with non-governmental organizations concerned with matters within its competence and may invite them to undertake specific tasks.

4. Whenever the Conference of the Organization and the competent authorities of any other international organization, whose purposes and functions lie within the competence of the Organization, deem it desirable to effect a transfer of its resources and functions to the Organization, to incorporate it into the Organization or to bring it under the supervision or authority of the Organization, the Director-General, subject to the approval of the Conference, may enter into mutually acceptable arrangements for this purpose. The Organization may acquire such resources and assume such functions of, or incorporate or exercise such control over, such other organizations as may be provided by any convention or agreement appropriate to the purpose. The Members shall, subject to their respective constitutional requirements, take such steps as the Conference may determine to integrate such other international organizations into the structure of the Organization.

Article 82

International responsibilities of personnel of the Organization

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 the members of the Commissions provided for in Article 72.

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 83

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 84

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. The Conference may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article and may propose conventions to the Members for this purpose.

Article 85

Amendments to the Charter

1. Any amendment to this charter which does not involve new obligations on the part

Paragraph 1

One delegate reserved his position in regard to the present phrasing of this paragraph.
of 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 new obligations on the part of Members, shall 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 determine that any Member which has not accepted an amendment under this paragraph within a period specified by the Conference, shall cease to be a Member of the Organization. In the absence of such determination, a Member not accepting an amendment shall, notwithstanding the provisions of paragraph 1 of Article 89, 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 86**

Interpretation and settlement of disputes

1. The texts of this Charter in the official languages of the United Nations shall be equally authoritative.

**Article 86**

GENERAL COMMENTS

**Paragraphs 2, 3, and 4**

One delegate explained his view that it was imperative for the Organization to be master in its own house and to be able to make final determinations of a nature provided for in the Charter. These determinations call for the exercise of discretion and for rulings on economic subjects on the basis of economic reasoning. In this respect, there exists a wide difference between normal commercial treaties, whose character is static, and the Charter, which is dynamic and subject to change in the light of experience. The determinations and rulings of the Organization do not form a proper object for judicial review, even by an economic chamber of the International Court of Justice. Judicial decisions call for the exercise of legal judgment but not for economic evaluation. The distinction between "justiciable" and other issues in Article 86 of the London text is untenable and unworkable. But in order to prevent abuse of majority power provision should be made whereby, on the motion of one-third of the members, an advisory opinion of the International Court of Justice would be sought on any issue involving interpretation of the Charter. In this delegate's view, the subjects of nullification and impairment and of interpretation and settlement of disputes belong together, and for this reason he suggested the provisions of paragraph 2 of Article 35, and Article 86 should be combined.

The Committee decided that this as well as the memorandum, submitted to the First Session by three delegates, on the subject of arbitration, was a substantive matter of the highest importance which would have to be referred to the Second Session. For this reason it was agreed to put paragraphs 2-4 inclusive of Article 86 into square brackets.

**SPECIFIC COMMENTS**

**Paragraph 4**

The First Session instructed the Committee to consider the desirability of redrafting paragraph 4 in view of the possibility that the General Assembly of the United Nations might agree to grant to other specialized agencies a general blanket authorization to seek advisory opinions from the International Court. Since paragraph 3 of Article 86 in its present form provides for the possibility of review of decisions of the International Trade Organization by the International Court, the Drafting Committee feels that a blanket authorization to seek advisory opinions might conflict with possible later litigation before the International Court and for this reason refers this issue for consideration in conjunction with paragraph 3 of Article 86, to the Second Session.
ternational Court of Justice advisory opinions on legal questions arising within the scope of its activities.

Article 87
Contributions

Each Member shall contribute promptly to the Organization its share of the Organization's expenditures as apportioned by the Conference. A Member of the Organization, 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.

Article 88
Entry into force

1. The original of this Charter, as set forth in the Final Act of the United Nations Conference on Trade and Employment, shall be deposited with the Secretary-General of the United Nations, who will furnish certified copies thereof to all interested governments. 2. Each government 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 other Members of the United Nations which were not represented at that Conference, of the day of deposit of each instrument of acceptance and of the day on which this Charter enters into force under paragraph 3 of this Article.

3. 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 2 of this Article shall read twenty, and the acceptance of each other accepting government shall take effect on the sixtieth day following the day on which the instrument of such acceptance is deposited, provided that, if this Charter shall not have entered into force by 194 , any of the governments which have made effective the General Agreement on Tariffs and Trade dated , together with any other governments represented at the United Nations Conference on Trade and Employment, may agree to bring this Charter into force among themselves in accordance with arrangements which they may agree upon. 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.

4. Each government accepting this Charter does so in respect of its metropolitan territory, and such other territories for which it has international responsibility with the exception of those territories which are self-governing in respect of matters provided for by the Charter. Each Member shall notify the Secretary-General of the United Nations of its acceptance of this Charter on behalf of any such self-governing territory, and the provisions of this Charter shall become applicable to that territory on the sixtieth day following the day of the receipt of such notification.

5. Each accepting government shall take such reasonable measures as may be available to it to assure observance of the provisions of this Charter by subsidiary governments within its territory.

Article 89
Withdrawal and termination

1. Without prejudice to the provisions of paragraph 3 of Article 24 or paragraph 2 of Article 35 any Member may withdraw from the Organization 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 at any time after the expiration of the 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.

Paragraph 3
One delegate proposed the re-insertion of the original text of paragraph 3 of Article 78 in the United States Draft Charter in place of this paragraph. The Committee decided to approve temporarily the text of paragraph 3 in the formulation of the Report of the First Session but to note in its report that the differences between the two texts were discussed and that there existed a body of opinion for the re-insertion of the text of the United States Draft Charter.
ANNEXURE A

List of territories referred to in sub-paragraph (2) (a) (ii) of Article 14.


ANNEXURE B

First report of the Administrative Sub-Committee (report on Executive Board membership and voting)

PART I

The Drafting Committee at its first meeting on 20 January 1947, appointed the Administrative Sub-Committee to make recommendations with regard to membership of the Executive Board and Voting. The Sub-Committee was composed of the delegates for Belgium, Brazil, Canada, Chile, Cuba, France, Netherlands, South Africa, the United Kingdom and the United States and elected Dr. Guillermo Alamilla as its Chairman.

The Sub-Committee discussed in seven meetings the main problems and issues relevant to the composition of the Executive Board and voting in the Board and in the Conference, taking due account of the instructions issued on page 8 of E/PC/T/C.5/33/Rev. 1 (Instructions to the Drafting Committee) and of instructions contained in Part II of the Report of the First Session, pages 22 to 24 inclusive, Sections E and F.

The Sub-Committee agreed from the outset that its members would attempt to establish the greatest possible identity of views regarding membership of the Executive Board and voting in the Board and in the Conference, taking due account of the instructions issued on page 8 of E/PC/T/C.5/33/Rev. 1 (Instructions to the Drafting Committee) and of instructions contained in Part II of the Report of the First Session, pages 22 to 24 inclusive, Sections E and F.

The Sub-Committee concentrated in its work upon the issues centering around the composition of the Executive Board, using as a working hypothesis the assumption of unweighted voting in the Conference and in the Executive Board and two or more categories for selection to Board membership. Under this assumption, the Sub-Committee arrived at the following conclusions regarding the principles which should be applied if the Executive Board is to be composed of scheduled and elected members:

1. Unable to choose between the comparative advantages of having two or three categories for selection of Board members, the Sub-Committee has elaborated two alternative drafts of Article 68, as set out below in Part II, one on the basis of two categories, the other of three categories, of seats on the Executive Board.

2. Any fair allocation of seats on the Executive Board requires a rating system whereby Members' relative economic importance for purposes of the Organization can be objectively determined. After careful analysis of the validity of a wide range of possible criteria which might be used in such a rating formula, the Committee decided to recommend the following formula:

   (a) Foreign Trade: 1 point per 50 million United States dollars
   (b) National Income: 1 point per 500 million United States dollars
   (c) Foreign Trade per capita: 1 point per 25 United States dollars

The Sub-Committee's reasons for recommending these criteria are as follows:

(i) There was general recognition that foreign trade must be the predominant criterion of economic importance for purposes of the Organization.

(ii) It was felt, however, that national income should also be included as a criterion, though at an appropriately lower weight. This would serve the useful purpose of increasing the relative points of important countries with very large populations but relatively low present foreign trade, and would indirectly give a weight to population, which after discussion the Sub-Committee felt should not be given direct weight as such in an international trade organization. The Sub-Committee recognized the difficulties in obtaining at present national income figures of complete scientific accuracy, but felt that the present work of the Statistical Commission of the United Nations will contribute to an ever-increasing accuracy of such figures. After consultation with the Statistical Division of the Secretariat, therefore, and in view of the fact that national income figures are already being used as an essential criterion in several inter-governmental organizations and in the budget allocations of the United Nations itself, the Sub-Committee concluded that the national income criterion would not present insurmountable difficulties in practice.

(iii) The Sub-Committee recognized that certain countries, the livelihood of whose populations is highly dependent on interna-
tional trade, will be much more vitally affected by decisions of the Organization than other countries in whose economy foreign trade, however great absolutely, plays a relatively minor role. It was therefore agreed that foreign trade per capita should be an additional weighting factor, particularly since the foreign trade criterion is to be modified by national income figures for the reasons given above.

3. In order to provide for changes in relative economic importance, the rating of Members should be periodically redetermined before each election. This automatically gives due weight to potentialities as these potentialities are realized.

4. In view of the disruption of national economies under wartime conditions, the first determination should be based on the average of prewar and post-war data.

5. The rules governing the composition of the Executive Board should be such as to allow for adequate representation of all countries which might join the Organization in the future. To achieve this end, it is provided that elective members of the Board should not be eligible for immediate re-election.

6. The Members of chief economic importance should be represented on the Executive Board, so long as they enjoy this relative position and the remaining seats should be filled through election by the remaining Members of the Conference.

On the basis of these principles, the Sub-Committee has agreed to report out to the Drafting Committee the two alternative drafts of Article 68, set out in Part II of this Report, which it is recommended could be considered substitutes for the second, third and fourth alternatives in the Report of the First Session.

In case that neither of these two alternative drafts would provide for satisfactory means of giving due representation on the Executive Board to members of the Organization with structurally different economies, the French proposal E/PC/T/C.6/W.53 may provide a principle to achieve this objective by assuring permanent representation to at least some of the members in each of the typical stages of economic development.

The Sub-Committee did not feel any necessity to elaborate a new draft text of Article 68 under the assumptions of "one country—one vote" and "no scheduled seats on the Executive Board", since the first alternative of Article 68 in the formulation of the text drafted at the First Session constitutes in the opinion of the Sub-Committee a textually satisfactory draft. If an increase in membership of the Board beyond fifteen is desired, the Sub-Committee feels that this number should never exceed eighteen, and that the first alteration of the text drafted at the First Session should be accordingly redrafted.

Regarding weighted voting, the Sub-Committee felt that if such a system were used the best formula would be the one described above under conclusion two for the determination of relative economic importance, plus an appropriate base vote.

On the general issue of weighted voting, the Sub-Committee has not been able to establish any degree of identity of views. A number of members of the Sub-Committee hold that in the case of weighted voting, the basic vote should not be so high as to offset the real differences in the relative economic importance of various countries. Another group holds that only a high basic vote would allow equitable principles to prevail if a system of weighted voting is at all to be applied. In view of this division of opinion in the Sub-Committee, the Sub-Committee feels that it could not provide satisfactory solutions on this issue and refers the issue of weighted voting to the Drafting Committee, drawing the attention of the Drafting Committee to the United Kingdom and the United States proposals for weighted voting contained in the Appendix to this report.

Whatever system is finally adopted for voting in the Conference or for the selection of members of the Executive Board, it was generally agreed that within the Board each member should have one vote.

**PART II**

**Article 68**

**Alternative "A" (on basis of two categories)**

1. The Executive Board shall consist of fifteen Members, including the six Members of chief economic importance. The Conference, excluding these six Members, shall elect the nine additional members of the Board for terms of three years subject to the provisions of paragraph 3 (b), due regard being paid to each Member's economic importance in international trade and also to equitable geographical distribution. Elective members of the Board shall not be eligible for immediate re-election. The Conference may, by the affirmative vote of two-thirds of its Members present and voting, increase the membership to not more than eighteen, allocating the additional seats between the two categories.

2. The Conference shall annually determine which are the Members of chief economic importance on the basis of a system of rating according to the following schedule:

   One point per 50 million United States dollars of foreign trade;
   One point per 500 million United States dollars national income; and
   One point per twenty-five United States dollars of foreign trade per capita.

Subject to the provisions of paragraph 3 (a), points shall be based on the relevant statistics for the average of the three full calendar years immediately preceding each election.

3 (a). The first determination of ratings shall be based upon the average of the statistics for 1937 and the calendar year immediately preceding the entry into force of this Charter;
3 (b). At the first election of the Board, three of the members shall be elected for a term of one year, and three others for a term of two years.

4. The status of all members on the Board shall be equal in all respects.

5. Each member of the Executive Board shall have one representative and may appoint alternates for and advisers to its representative.

Alternative "B" (on basis of three categories)

1. The Executive Board shall consist of no more than eighteen Members to be determined in accordance with the provisions of paragraphs 2, 3, 4, 5 and 6 of this Article.

2. Each Member shall be given a rating determined every three years according to the following schedule:
   - One point per 50 million United States dollars of foreign trade;
   - One point per 500 million United States dollars national income; and
   - One point per 25 United States dollars of foreign trade per capita.

   The points shall be based on the average of the relevant statistical data for the three full calendar years immediately preceding each election, provided that for the first election the points shall be calculated on the average of the statistical data for 1937 and the full calendar year immediately preceding the entry into force of this Charter.

3. The seven Members with the highest ratings shall be members of the Board for the three-year period succeeding each determination.

4. The ten Members with the ratings next in order after the seven Members referred to in paragraph 3 shall elect from among themselves five members of the Board for a three-year period.

5. The Conference, excluding the seventeen Members referred to in paragraphs 3 and 4 of this Article, shall elect not more than six members of the Board, provided that there shall never be more than one seat on the Board, under the provisions of this paragraph, per three Members participating in the elections under this paragraph. Such members of the Board shall normally be elected for terms of three years, provided that the Conference shall, as necessary, establish procedures with regard to these terms designed to assure a reasonable measure of continuity in representation on the Board.

6. The members of the Board elected under paragraphs 4 and 5 above shall not be eligible for immediate re-election.

7. The status of all members on the Board shall be equal in all respects.

8. Each member of the Executive Board shall have one representative and may appoint alternates for and advisers to its representative.

PART III

APPENDICES

Appendix

1. United Kingdom Formula for Weighted Voting issued as (E/PC/T/C.6/W.3).

2. Tables of Relative Economic Importance on the Basis of the United Kingdom Formula.


7. Tables of Relative Economic Importance on the Basis of the Brazilian Formula.


10. Secretariat Table on Relative Economic Importance issued as (E/PC/T/C.6/W.47).


APPENDIX I

Formula for weighted voting proposed by the United Kingdom delegate

Factors: (a) External trade: 20 votes per '000 million $.

(b) National Income: 2 votes per '000 million $.

(c) Population: 1 vote per 10 million.

(d) Percentage of trade to national income: 1 vote per 10 per cent.

(e) Basic vote 100.

The above formula, applied to the figures of external trade for 1937 and of national income for 1940, together with the most up-to-date approximate figures of population available, would yield the following results for the countries participating in the Preparatory Committee (we contemplate that there would be periodical revisions—perhaps quinquennial—to take account of changes that have taken place affecting the basic data):

<table>
<thead>
<tr>
<th>Country</th>
<th>Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>399</td>
</tr>
<tr>
<td>United Kingdom and colonies</td>
<td>335</td>
</tr>
<tr>
<td>USSR</td>
<td>199</td>
</tr>
<tr>
<td>India</td>
<td>194</td>
</tr>
<tr>
<td>France</td>
<td>182</td>
</tr>
<tr>
<td>China</td>
<td>181</td>
</tr>
<tr>
<td>Netherlands and colonies</td>
<td>168</td>
</tr>
<tr>
<td>Canada</td>
<td>152</td>
</tr>
<tr>
<td>Belgium and colonies</td>
<td>149</td>
</tr>
<tr>
<td>Australia</td>
<td>132</td>
</tr>
<tr>
<td>Czechoslovakia</td>
<td>127</td>
</tr>
<tr>
<td>Brazil</td>
<td>126</td>
</tr>
<tr>
<td>South Africa</td>
<td>124</td>
</tr>
<tr>
<td>New Zealand</td>
<td>119</td>
</tr>
<tr>
<td>Norway</td>
<td></td>
</tr>
<tr>
<td>Australia</td>
<td>115</td>
</tr>
<tr>
<td>Chile</td>
<td></td>
</tr>
</tbody>
</table>

We contemplate that the order thus determined would also be used for the purpose of allocating permanent seats on the Executive Board: thus if there were to be eight permanent seats, they would in the first instance, be allotted
to the countries numbered 1 to 8 above. The allocation would be liable to be changed from time to time as the result of the periodical revisions.

**APPENDIX I (a)**

*Draft of Article 64 if weighted voting is adopted suggested by the United Kingdom delegate*

**Article 64**

1. Each Member shall have in the Conference the number of votes allocated to it in Annex... to this Charter.

2. Except as otherwise provided in this Charter, decisions of the Conference shall be taken by a majority of the votes cast.

*Note: There would be similar consequential amendments to other voting provisions in Chapter VIII excluding Article 69.*

**APPENDIX II**

*Number of votes under various headings of United Kingdom formula*

<table>
<thead>
<tr>
<th>Country</th>
<th>Population</th>
<th>External Trade</th>
<th>National Income</th>
<th>Basic Vote</th>
<th>Total Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S.A.</td>
<td>14</td>
<td>128</td>
<td>156</td>
<td>1</td>
<td>100</td>
</tr>
<tr>
<td>U.K.</td>
<td>13</td>
<td>165</td>
<td>54</td>
<td>3</td>
<td>100</td>
</tr>
<tr>
<td>U.S.S.R.</td>
<td>19</td>
<td>16</td>
<td>64</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Canada</td>
<td>1</td>
<td>36</td>
<td>12</td>
<td>3</td>
<td>100</td>
</tr>
<tr>
<td>France and colonies</td>
<td>11</td>
<td>46</td>
<td>23</td>
<td>2</td>
<td>100</td>
</tr>
<tr>
<td>China</td>
<td>48</td>
<td>11</td>
<td>24</td>
<td></td>
<td></td>
</tr>
<tr>
<td>India</td>
<td>42</td>
<td>27</td>
<td>24</td>
<td>1</td>
<td>100</td>
</tr>
<tr>
<td>Netherlands and colonies</td>
<td>8</td>
<td>46</td>
<td>7</td>
<td>7</td>
<td>100</td>
</tr>
<tr>
<td>Belgium and colonies</td>
<td>2</td>
<td>35</td>
<td>5</td>
<td>7</td>
<td>100</td>
</tr>
<tr>
<td>Australia</td>
<td>1</td>
<td>22</td>
<td>6</td>
<td>3</td>
<td>100</td>
</tr>
<tr>
<td>Brazil</td>
<td>5</td>
<td>13</td>
<td>5</td>
<td>3</td>
<td>100</td>
</tr>
<tr>
<td>Czechoslovakia</td>
<td>1</td>
<td>16</td>
<td>6</td>
<td>3</td>
<td>100</td>
</tr>
<tr>
<td>South Africa</td>
<td>1</td>
<td>14</td>
<td>2</td>
<td>7</td>
<td>100</td>
</tr>
<tr>
<td>New Zealand</td>
<td>10</td>
<td>1</td>
<td>8</td>
<td>100</td>
<td>119</td>
</tr>
<tr>
<td>Cuba</td>
<td>6</td>
<td>1</td>
<td>8</td>
<td>100</td>
<td>115</td>
</tr>
<tr>
<td>Norway</td>
<td>10</td>
<td>2</td>
<td>7</td>
<td>100</td>
<td>119</td>
</tr>
<tr>
<td>Chile</td>
<td>6</td>
<td>1</td>
<td>7</td>
<td>100</td>
<td>115</td>
</tr>
</tbody>
</table>

**APPENDIX II (a)**

*Basic factors*

*Used in the United Kingdom formula for weighted voting*

<table>
<thead>
<tr>
<th>Country</th>
<th>Population Latest Available Figures Approximate</th>
<th>Trade 1937 Million</th>
<th>National Income 1940 Million</th>
<th>Percentage of Trade to National Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S.A.</td>
<td>142</td>
<td>6,379</td>
<td>77,800</td>
<td>8</td>
</tr>
<tr>
<td>U.K. and colonies</td>
<td>132</td>
<td>8,274</td>
<td>27,000</td>
<td>31</td>
</tr>
<tr>
<td>U.S.S.R. (including Latvia, Estonia and Lithuania)</td>
<td>193</td>
<td>817</td>
<td>32,000</td>
<td>3</td>
</tr>
<tr>
<td>Canada</td>
<td>12</td>
<td>1,824</td>
<td>3,800</td>
<td>31</td>
</tr>
<tr>
<td>France and colonies</td>
<td>106</td>
<td>2,306</td>
<td>11,300</td>
<td>20</td>
</tr>
<tr>
<td>China</td>
<td>455</td>
<td>535</td>
<td>12,000</td>
<td>4</td>
</tr>
<tr>
<td>India</td>
<td>419</td>
<td>1,369</td>
<td>12,000</td>
<td>11</td>
</tr>
<tr>
<td>Netherlands and colonies</td>
<td>80</td>
<td>2,284</td>
<td>3,500</td>
<td>65</td>
</tr>
<tr>
<td>Belgium and colonies</td>
<td>19</td>
<td>1,748</td>
<td>2,350</td>
<td>74</td>
</tr>
<tr>
<td>Australia</td>
<td>7</td>
<td>1,090</td>
<td>3,200</td>
<td>34</td>
</tr>
<tr>
<td>Brazil</td>
<td>45</td>
<td>677</td>
<td>2,500</td>
<td>27</td>
</tr>
<tr>
<td>Czechoslovakia</td>
<td>14</td>
<td>800</td>
<td>3,000</td>
<td>27</td>
</tr>
<tr>
<td>Union of South Africa</td>
<td>11</td>
<td>684</td>
<td>1,000</td>
<td>68</td>
</tr>
<tr>
<td>New Zealand</td>
<td>2</td>
<td>482</td>
<td>600</td>
<td>80</td>
</tr>
<tr>
<td>Cuba</td>
<td>5</td>
<td>315</td>
<td>420</td>
<td>75</td>
</tr>
<tr>
<td>Norway</td>
<td>3</td>
<td>523</td>
<td>750</td>
<td>70</td>
</tr>
<tr>
<td>Chile</td>
<td>5</td>
<td>283</td>
<td>400</td>
<td>71</td>
</tr>
<tr>
<td>Lebanon</td>
<td>1</td>
<td>64</td>
<td>*</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

*No information.*
APPENDIX III

United States suggestion

The attached amendments to Article 64 (Voting in the Conference), Article 68 (Membership in the Executive Board) and Article 69 (Voting in the Executive Board) are designed to provide for a system of weighted voting in the ITO which would be strictly confined to issues arising out of the balance-of-payments provisions of the Charter, and to the issue of Membership in the Executive Board.

The main consideration in support of this plan is that exchange restrictions and quantitative restrictions on trade are equally effective alternative methods of dealing with balance of payments problems; that exchange restrictions are under the jurisdiction of the International Monetary Fund, which has a system of weighted voting; and that if the same voting system is adopted in the ITO on balance of payments matters this will assure consistency between the actions of the Fund and the ITO on questions in which they are expected to pursue a common policy as envisaged in Articles 26, 28 and 29 of the Charter.

It is recognized that the issues on which weighted voting is intended to apply may need to be more closely defined than in the attached draft.

Article 64. Voting (Conference)

1. Except as provided in paragraph 2, each Member shall have one vote in the Conference.

2. Whenever voting in the Conference is required on any matter, arising under Article 26, 28 or 29, in which the Organization and the International Monetary Fund have a common interest, and in the election of members of the Executive Board, each Member which is a member of the International Monetary Fund shall have in the Conference the same number of votes as it is currently entitled to cast in the Fund pursuant to Article XII, Section 5(a) of the Articles of Agreement of the International Monetary Fund, and each other Member shall have in the Conference the number of votes provided for in the special exchange agreement entered into between that Member and the Organization pursuant to paragraph 3 of Article 29.

3. The Conference shall make arrangements for the detailed application of the provisions of paragraph 2 of this Article in respect of the election of members of the Executive Board. Such arrangements shall be framed on general principles analogous to those set forth in paragraphs 1 through 6 of Schedule C annexed to the Articles of Agreement of the International Monetary Fund.

(Alternatively: Such arrangements shall be framed on general principles designed to assure that (a) the votes cast by any one Member shall not count toward the election of more than one member of the Board and (b) the votes cast by each Member shall count toward the election of some member of the Board.)

4. Except as may be otherwise provided for in this Charter, decisions of the Conference shall be taken by a majority of the [Members present and voting] votes cast.

Article 68. Membership (Executive Board)

1. The Executive Board shall consist of fifteen Members of the Organization elected by the Conference in accordance with paragraphs 2 and 3 of Article 64.

2. Subject to the provisions of paragraph 3 one third of the members of the Executive Board shall be elected each year for a term of three years. The Conference may by regulation determine for any election that retiring members, other than those elected by the five Members of the Organization having the largest number of votes under paragraph 2 of Article 64, shall not be eligible for immediate re-election.

3. At the first election, fifteen Members of the Executive Board shall be chosen. The term of office of five Members shall expire at the end of one year, and of five other Members at the end of two years, in accordance with arrangements made by the Conference.

4. Each Member of the Executive Board shall have one representative and may appoint alternates and advisers to its representatives.

Article 69. Voting (Executive Council)

1. Except as provided in paragraph 2, each member of the Executive Board shall have one vote.

2. Whenever voting in the Executive Board is required on any matter, arising under Article 26, 28 or 29, in which the Organization and the International Monetary Fund have a common interest, each member of the Executive Board shall be entitled to cast the number of votes which counted towards the election of that member under paragraphs 2 and 3 of Article 64.

3. Decisions of the Executive Board shall be made by a majority of [members present and voting] the votes cast.

APPENDIX III (a)

United States suggestion

Addition to E/PC/T/C.6/W.6 concerning weighted voting

Document E/PC/T/C.6/W.6, submitted by the United States Delegation, sets forth a plan for weighted voting in the ITO (a) on matters in which the ITO and the Fund have a common interest, and (b) in the election of the Executive Board. The following explanations and clarifications may be of use to the Committee in its consideration of this proposal:

1. It is intended that on substantive matters the method of voting suggested should be confined to cases in which the Organization is required under the Charter to consult the Fund before acting. This purpose might be effected better by revising the opening part of par. 2 of Article 64 and par. 2 of Article 69 along the
following lines (deleted language in brackets, new language underscored):

Article 64

"2. Whenever voting in the Conference is required [on any matter arising under Article 26, 28 or 29 in which the Organization and the International Monetary Fund have a common interest] on any decision of the Organization required to be taken in consultation with the International Monetary Fund under paragraphs 3 and 5 of Article 26, paragraphs 1 (iv) and 2 of Article 28, and paragraphs 4 and 6 of Article 29," etc.

Article 29

"2. (Same as above, appropriately replacing the word 'Conference' by 'Executive Board')."

2. With regard to the application of the Fund voting system to the election of the members of the Board of the ITO, the following points may be noted:

A. No Member would be allowed to split his vote so as to elect more than one member of the Board. In other words, countries having a large number of votes because of their large quotas in the Fund (which have relation to the economic importance of the country) could use these votes only for the purpose of electing themselves to the Board. Thus, as will be explained below, the six countries having the largest votes would all be equal for this purpose despite the difference in their votes.

B. It would be provided in general that no Member could be elected to the Board on any ballot unless he obtained a number of votes equal to the average resulting from a division of the total number of eligible votes by the total number of members to be elected. Thus, using the Fund voting quotas as given in the attached Schedule 1, the following results would be achieved:

1. On the first ballot, the average number of votes required to elect, assuming an Executive Board of fifteen members, would be over 6,000. Since only three countries (the United States, the United Kingdom and the USSR) have more than this number, presumably only these three countries would be elected on the first ballot.

2. On the second ballot, the average number of votes required to elect (the eligible votes divided by the remaining number of seats) would be 3,944. This would mean that China (5,750 votes), France (5,500 votes) and India (4,250 votes) could elect themselves on this ballot.

3. On the third ballot approximately 3,500 votes would be required to elect. Since no one of the remaining countries would have this number of votes, it would require the support of some other country or countries to be elected.

4. Countries comprising a geographical area could be almost certain of electing a director if they voted together, for example, the Latin American republics (excluding Argentina) would have 9,645 votes and thus could always elect two directors. An illustration of how this might work out is afforded by the elections in the Monetary Fund as shown in the attached Schedule II.

C. In order to make provision against the possibility that there might be inadequate rotation of seats, the Conference by majority vote would be authorized to declare for any election that retiring members (other than those elected by the six members of the Organization having the largest number of votes, or whatever member is decided upon) shall not be eligible for immediate re-election.

D. In voting in the Executive Board on the balance of payments issues referred to above, each Member would cast the votes which counted towards his election (or to which the Member is entitled in his own right, whichever is higher). How this might work out is illustrated in Schedule II.

E. A possible advantage of the plan is that each Member of the ITO would, so to speak, have a particular representative on the Board to which it could look for assistance in making its voice heard.

Schedule 1

Schedule of votes under International Monetary Fund*

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>27,750</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>13,250</td>
</tr>
<tr>
<td>USSR</td>
<td>12,250</td>
</tr>
<tr>
<td>China</td>
<td>5,750</td>
</tr>
<tr>
<td>France</td>
<td>5,500</td>
</tr>
<tr>
<td>India</td>
<td>4,250</td>
</tr>
<tr>
<td>Canada</td>
<td>3,250</td>
</tr>
<tr>
<td>Netherlands</td>
<td>3,000</td>
</tr>
<tr>
<td>Belgium</td>
<td>2,500</td>
</tr>
<tr>
<td>Australia</td>
<td>2,250</td>
</tr>
<tr>
<td>Brazil</td>
<td>1,750</td>
</tr>
<tr>
<td>Czechoslovakia</td>
<td>1,500</td>
</tr>
<tr>
<td>Poland</td>
<td>1,500</td>
</tr>
<tr>
<td>Union of South Africa</td>
<td>1,250</td>
</tr>
<tr>
<td>Mexico</td>
<td>1,150</td>
</tr>
<tr>
<td>Denmark</td>
<td>930</td>
</tr>
<tr>
<td>Yugoslavia</td>
<td>850</td>
</tr>
<tr>
<td>Chile</td>
<td>750</td>
</tr>
<tr>
<td>Colombia</td>
<td>750</td>
</tr>
<tr>
<td>Cuba</td>
<td>750</td>
</tr>
<tr>
<td>New Zealand</td>
<td>750</td>
</tr>
<tr>
<td>Norway</td>
<td>750</td>
</tr>
<tr>
<td>Egypt</td>
<td>700</td>
</tr>
<tr>
<td>Greece</td>
<td>650</td>
</tr>
<tr>
<td>Iran</td>
<td>500</td>
</tr>
<tr>
<td>Peru</td>
<td>500</td>
</tr>
<tr>
<td>Philippine Republic</td>
<td>400</td>
</tr>
<tr>
<td>Uruguay</td>
<td>400</td>
</tr>
<tr>
<td>Venezuela</td>
<td>400</td>
</tr>
<tr>
<td>Bolivia</td>
<td>350</td>
</tr>
<tr>
<td>Luxemburg</td>
<td>350</td>
</tr>
<tr>
<td>Iraq</td>
<td>330</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>310</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>300</td>
</tr>
</tbody>
</table>

* Based on amended quotas in Articles of Agreement of International Monetary Fund.
Dominican Republic .................................. 300
Ecuador ............................................. 300
Guatemala .......................................... 300
Haiti .................................................. 300
El Salvador .......................................... 275
Honduras ............................................ 275
Nicaragua ............................................ 270
Paraguay ............................................. 270
Iceland ............................................... 260
Liberia ............................................... 255
Panama ............................................... 255

100,580

SCHEDULE II

Voting power of executive directors of International Fund*

Directors appointed by:
1. United States .................................. 27,750
2. United Kingdom ................................ 13,250
3. China ............................................. 5,750
4. France ........................................... 5,500
5. India ............................................. 4,250

Elected Directors
6. Santos-Filho (Brazil), elected by votes of:
Brazil ............................................... 1,750
Chile .................................................. 750
Peru .................................................... 500
Uruguay .............................................. 400
Bolivia ............................................... 350
Ecuador .............................................. 300
Paraguay ............................................ 270
Panama ............................................... 255

7. Gomez (Mexico) elected by votes of:
Mexico ............................................... 1,150
Colombia ............................................. 750
Cuba .................................................. 750
Costa Rica ......................................... 300
Costa Rica ......................................... 300
Dominican Republic ............................. 300
Guatemala .......................................... 300
El Salvador ........................................ 275
Honduras .......................................... 275
Nicaragua .......................................... 270

4,575

8. Bruins (Netherlands) elected by votes of:
Netherlands ....................................... 3,000
Union of South Africa ........................... 1,250

4,250

9. Rasminsky (Canada), elected by votes of:
Canada ............................................... 3,250
Norway ................................................ 750

4,000

10. Mladek (Czechoslovakia) elected by votes of:
Czechoslovakia .................................... 1,500
Poland ............................................... 1,500
Yugoslavia .......................................... 850

3,850

11. Gutt (Belgium), elected by votes of:
Belgium .............................................. 2,500
Luxembourg ......................................... 350
Iceland .............................................. 260

3,110

12. Saad (Egypt) elected by votes of:
Egypt .................................................. 700
Greece ............................................... 650
Iran .................................................... 500
Philippines ......................................... 400
Iraq .................................................... 330
Ethiopia ............................................. 310

2,890

Total ................................................ 82,795

APPENDIX IV

Observations by the Czechoslovak Delegate on voting at the Conference and seats on the Executive Board

Upon the suggestion of the Secretariat, the Czechoslovak delegate wishes to express his views on the question of voting on the Conference as well as on the question of seats on the Executive Board.

Conference

In accordance with its opinion expressed at the last session of the Preparatory Committee the Czechoslovak delegate to the Drafting Committee agrees with the original text as suggested in the United States Charter in Article 64, paragraph 1, reading as follows:

"Each Member shall have one vote in the Conference."

It follows then that we are on principle opposed to any suggestion for weighted voting.

Executive Board

In my opinion the Executive Board should consist of fifteen to eighteen Members. Five seats should be reserved for the five permanent Members of the Security Council of the United Nations. The remaining ten Members of the Executive Board should be elected by the Conference, proper regard being paid to an equitable geographical distribution of seats and representation of Members of differing economic structures. Retiring Members should be eligible for re-election.

In the opinion of the Czechoslovak delegate the question of the membership of the Executive Board should not be materially dealt with until all countries which are likely to become Members of the Organization have had ample opportunity to present their views on the matter.

* The total number of votes and the percentage distribution of the voting power of member countries are affected by the fact that Denmark did not join in time to participate in the elections.

59
APPENDIX V

Alternate Draft of Article 68 (old Article 57)
Suggested by the Delegate for Canada

Executive Board—Membership

1. The Executive Board shall consist of fifteen Members of the Organization.
   (a) By virtue of their economic importance, Canada, China, France, India, United Kingdom, and United States of America, shall be appointed as permanent members.
   (b) Four other Members of the Executive Board shall be elected by the Conference so as to assure the continued representation of either Australia or New Zealand, either Belgium or the Netherlands, one Latin American member whose capital is south of the equator and one Latin American member whose capital is north of the equator.
   (c) The remaining Members of the Executive Board shall be elected by the Conference, and any of the members enumerated above who are not already elected may be chosen.

2. The non-permanent Members of the Executive Board shall be elected for a period of three years. At the first election of the non-permanent Members, three Members shall be elected for a term of one year and three others for a term of two years. A retiring Member shall be eligible for immediate re-election.

3. These elections shall take place in accordance with arrangements to be approved by the Conference with a two-thirds majority of its Members.

4. Each Member of the Executive Board shall have one representative who may appoint alternates and advisers.

APPENDIX VI

Alternate Draft of Article 68 (old Article 57)
Suggested by the Brazilian Delegate

Section D. The Executive Board

Article 68. Membership

1. The Executive Board shall consist of eighteen members of the Organization according to the following regional divisions: five members from countries belonging to Europe; four members from North America, Central America and the Caribbean countries; three members from Asia; two members from Africa and the Near East; two members from South Africa; one member from Oceania; and one from U.S.S.R. by reason of her special position in two countries.

2. Eight members of the Executive Board shall be appointed for a term of five years by the Member countries of the Organization having the most important relative trade position in each of the above-mentioned regional divisions and in accordance with the provisions of No. 4 of this Article.

Accordingly, two representatives of European countries; two of North America, Central America and the Caribbean countries; two of Asia; one of South America; and one of U.S.S.R. will be appointed members of the Executive Board.

The relative position of the Member countries established according to No. 4 of this Article, shall be re-examined by the Executive Board at the end of each term of five years, and any change which may occur will be taken into consideration in order to implement the provisions of the first paragraph of No. 2 of this Article.

The members of the Executive Board shall be appointed by the same Member countries if no change has occurred in the relative position established according to the provisions of No. 4 of this Article.

3. Ten members of the Executive Board shall be elected by the Conference and by the Member countries not appointing their representatives, taking into account the number of Directors allocated to each of the regional divisions set forth in No. 1 of this Article.

   (a) Five members of the Executive Board shall be elected for the term of three years; and
   (b) Five members for two years;
   (c) A retiring member of the Board shall be eligible for immediate re-election.
   (d) If a Member country entitled according to the provisions of this Article to appoint a member of the Executive Board decides not to accept the membership of the Organization, then a Member country belonging to the regional division of Oceania shall be elected by the Conference according to No. 3 (a) of this Article.

4. The most important relative trade position in each of the above-mentioned regional divisions, in order to implement the provisions of No. 2 of this Article, shall be determined by the addition of the following factors:
   (a) One hundred basic units to be allocated to any Member country;
   (b) Twenty units to be allocated for each one billion dollars in the world trade of each Member of the Organization during the last normal period (1938);
   (c) The actual percentage of the foreign trade of the Member country in relation to global world trade; and
   (d) One unit for each two percent of the population of the Member country in relation to the global population of the regional division to which it belongs.

5. Each member of the Executive Board shall have one representative and may appoint alternates and advisers to its representatives.

APPENDIX VII

Administrative Sub-Committee

Formula for Membership proposed by the Brazilian Delegate

Factors:

(a) One hundred basic units to be allocated to any Member country;
(b) External trade: 20 units per '000 million $ in 1938;
(c) Percentage of foreign trade in global world trade;
(d) Population: one unit for each two per cent of the population of the regional division to which the Member country belongs.

The above formula applied to the figures of external trade for 1938, together with available figures of population for 31 December 1939, or a later date as far as possible, would yield the following results:

**EUROPE**

<table>
<thead>
<tr>
<th>Country</th>
<th>(b)</th>
<th>(c)</th>
<th>(d)</th>
<th>(a)</th>
<th>(b)</th>
<th>(c)</th>
<th>(d)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>29.81</td>
<td>3.21</td>
<td>1.8</td>
<td>155</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Czechoslovakia</td>
<td>12.9</td>
<td>1.4</td>
<td>3.0</td>
<td>117</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Denmark</td>
<td>13.8</td>
<td>1.5</td>
<td>0.8</td>
<td>116</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>France</td>
<td>44.0</td>
<td>4.7</td>
<td>3.6</td>
<td>157</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greece</td>
<td>4.4</td>
<td>0.5</td>
<td>1.5</td>
<td>106</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iceland</td>
<td>0.5</td>
<td>0.0</td>
<td></td>
<td>101</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ireland</td>
<td>6.3</td>
<td>0.7</td>
<td>0.6</td>
<td>108</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Italy</td>
<td>22.7</td>
<td>2.4</td>
<td>9.1</td>
<td>134</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Luxembourg</td>
<td></td>
<td></td>
<td>0.1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Netherlands</td>
<td>26.9</td>
<td>2.9</td>
<td>2.0</td>
<td>132</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Norway</td>
<td>9.6</td>
<td>1.0</td>
<td>0.6</td>
<td>111</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Poland</td>
<td>9.4</td>
<td>1.0</td>
<td>5.0</td>
<td>115</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Portugal</td>
<td>5.0</td>
<td>0.5</td>
<td>1.6</td>
<td>107</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sweden</td>
<td>19.7</td>
<td>2.1</td>
<td>1.5</td>
<td>123</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Switzerland</td>
<td>13.3</td>
<td>1.4</td>
<td>0.9</td>
<td>116</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>United Kingdom</td>
<td>128.8</td>
<td>13.8</td>
<td>10.0</td>
<td>243</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yugoslavia</td>
<td>4.6</td>
<td>0.5</td>
<td>3.0</td>
<td>108</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**NORTH AMERICA, CENTRAL AMERICA AND THE CARIBBEAN**

- **United States**: 100.1 units
- **Canada**: 30.4 units
- **Mexico**: 4.4 units
- **Cuba**: 5.0 units
- **All others**: 3.4 units

**ASIA**

- **Afghanistan**: 0.7 units
- **China**: 18.6 units
- **India**: 20.4 units
- **Philippines**: 4.9 units

**AFRICA AND NEAR EAST**

- **Egypt**: 6.6 units
- **Union of South Africa**: 12.6 units
- **Turkey**: 4.7 units
- **Lebanon and Syria**: 1.1 units
- **Saudi Arabia**: 0.9 units
- **Iraq**: 1.7 units
- **Iran**: 4.8 units

**S. AMERICA**

- **Argentina**: 17.6 units
- **Bolivia**: 1.2 units
- **Brazil**: 11.8 units
- **Chile**: 4.8 units
- **Columbia**: 3.4 units

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4. The designation and elections shall take place in accordance with arrangements to be approved by the Conference with a two-thirds majority of its members.

Each member of the Executive Board shall have one representative who may appoint alternates and advisers.
APPENDIX IX

Allocation of Permanent Seats of the Executive Committee

Suggestion by the Delegate for France

In the course of the work of the First Session of the Preparatory Commission, it became apparent that differences of economic structure existing between the countries participating in the Conference, particularly as regards their degree of industrial development, made it necessary to take into account, in drafting a Trade Charter, needs which were common to certain groups of countries.

This fact was recognized more specifically in a new chapter of the draft Charter, intended to ensure the development of countries with insufficiently advanced economic systems.

This is clearly a fundamental idea, very closely affecting the realization of the aims of the Organization, and it appears to be recognized unanimously.

With this in mind, the delegate for France submits for the Committee's consideration the following suggestion concerning the allocation of permanent seats on the Executive Committee:

"The Member States to be divided into four groups, each group corresponding to a type of economic structure. There would thus be:

First Group: Highly industrialized countries in whose economic systems foreign trade constitutes an essential element.

Second Group: Highly industrialized countries in whose economic systems foreign trade represents only a secondary element.

Third Group: Insufficiently industrialized countries in whose economic systems foreign trade constitutes an essential element.

Fourth Group: Insufficiently industrialized countries whose foreign trade is little developed."

The first group, owing to the fully integrated type of economic system which it represents, and which corresponds to the aims pursued by the Organization, would have three seats on the Executive Committee.

Each of the three other groups would have two seats, thus making up a total of nine permanent seats.

Each country would itself be invited to choose the group to which it considered it belonged, the choice being endorsed by a vote of the Conference.

The countries of each group would themselves appoint their representatives to the Executive Committee, taking into account both the representative character of the countries elected and their geographical situation.

The representatives would be appointed for a period of five years.

APPENDIX X

Formula for rating economic importance

(a) Foreign Trade: 20 votes per 1000 million $
(b) National Income: 2 votes per 1000 million $
(c) Foreign Trade per capita: 1 vote per 25 $

The above formula, applied to figures for 1938, would yield the following results:

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>Foreign Trade</th>
<th>National Income</th>
<th>Trade per Capita</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S.A</td>
<td>107</td>
<td>128</td>
<td>1.6</td>
<td>237</td>
</tr>
<tr>
<td>U.K. and colonies (*)</td>
<td>157 (129)</td>
<td>50 (46)</td>
<td>2.6 (5.4)</td>
<td>210 (180)</td>
</tr>
<tr>
<td>France and colonies (*)</td>
<td>37 (44)</td>
<td>20 (19)</td>
<td>0.6 (*)</td>
<td>58 (65)</td>
</tr>
<tr>
<td>U.S.S.R. (including Latvia, Estonia &amp; Lithuania)</td>
<td>40</td>
<td></td>
<td></td>
<td>54</td>
</tr>
<tr>
<td>Netherlands and colonies (*)</td>
<td>42 (16)</td>
<td>9 (5)</td>
<td>1.0 (6)</td>
<td>52 (27)</td>
</tr>
<tr>
<td>Canada</td>
<td>33</td>
<td>9</td>
<td>6</td>
<td>48</td>
</tr>
<tr>
<td>India</td>
<td>23</td>
<td>16</td>
<td>0.2</td>
<td>39</td>
</tr>
<tr>
<td>Belgium and colonies (*)</td>
<td>29 (29)</td>
<td>5 (4)</td>
<td>3.2 (7)</td>
<td>37 (40)</td>
</tr>
<tr>
<td>Italy</td>
<td>23</td>
<td>11</td>
<td>1.0</td>
<td>35</td>
</tr>
<tr>
<td>China</td>
<td>18</td>
<td>16</td>
<td></td>
<td>34</td>
</tr>
<tr>
<td>Australia</td>
<td>21</td>
<td>6</td>
<td>6</td>
<td>33</td>
</tr>
<tr>
<td>Sweden</td>
<td>20</td>
<td>5</td>
<td>6.2</td>
<td>51</td>
</tr>
<tr>
<td>Argentina</td>
<td>18</td>
<td>4</td>
<td>2.6</td>
<td>25</td>
</tr>
<tr>
<td>Union of South Africa</td>
<td>18*</td>
<td>3*</td>
<td>3*</td>
<td>24*</td>
</tr>
<tr>
<td>Switzerland</td>
<td>13</td>
<td>4</td>
<td>6.4</td>
<td>23</td>
</tr>
<tr>
<td>New Zealand</td>
<td>9</td>
<td>1.6</td>
<td>10.8</td>
<td>21</td>
</tr>
<tr>
<td>Czechoslovakia</td>
<td>13</td>
<td>5</td>
<td>1.6</td>
<td>20</td>
</tr>
<tr>
<td>Norway</td>
<td>10</td>
<td>2</td>
<td>6.6</td>
<td>19</td>
</tr>
<tr>
<td>Brazil</td>
<td>12</td>
<td>4</td>
<td>0.6</td>
<td>17</td>
</tr>
<tr>
<td>Poland</td>
<td>9</td>
<td>6</td>
<td>0.6</td>
<td>16</td>
</tr>
<tr>
<td>Egypt</td>
<td>7</td>
<td>2</td>
<td>0.8</td>
<td>10</td>
</tr>
<tr>
<td>Chile</td>
<td>5</td>
<td>1</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>Cuba</td>
<td>5</td>
<td>1</td>
<td>2.4</td>
<td>8</td>
</tr>
<tr>
<td>Lebanon and Syria</td>
<td>1</td>
<td>0.4</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

(1) Intra-trade figures excluded. Colonies are excluded in the figures given in parentheses.
(2) Population figures for 1937.
(*) Including gold exports.
APPENDIX XI
Statement of the United Kingdom delegate on its views regarding the composition of the Executive Board

The following outlines present views of the United Kingdom delegate on the composition of the Executive Board:

1. The Executive Board should consist of seventeen or eighteen Members of the Organization, of whom eight should be permanently represented upon it. The permanent seats would be allocated to the first eight Members as determined by the United Kingdom formula set out in E/PC/T/C.6/W.3. In making the determination in the first year a fair balance would be struck between prewar and postwar statistics.

The nine remaining seats would be filled by Members elected by the Conference.

The United Kingdom has not any settled views upon the basis of such election but would support provisions which
(a) Would yield a fair geographical distribution of at least a proportion of seats on the Board; (whether by a specific geographical scheme or otherwise)
(b) Allow for rotation of Members in service on the Board.

2. In the election weighted votes would be used.

3. Each Member of the Board should have one vote in all decisions by the Board.

APPENDIX XII
Provisions for two-thirds majorities in the draft charter

Note by the delegate for the United Kingdom

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

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

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

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

1. Articles 26 (3) (Conditions under which balance of payments restrictions may be imposed): it is doubtful if a two-thirds majority rule should be applied to this. It is suggested that in any event it should be confined to paragraph 3 (d)—determination that the provision is being abused, and should be of Type 2 as described above.

2. Article 30, 4 (b) (Subsidies, suspension of rules). A two-thirds majority of Type 1 would seem to be reasonable in this case.

3. Article 34 (Emergency Action). The requirement of a two-thirds majority* in relation to action by the Organization under the last sentence of the proviso to paragraph 4 would seem reasonable.


5. Article 40 (e) and (f). (Findings and Recommendations). A two-thirds majority* seems reasonable.

6. Article 51 (London text) (Principles of commodity arrangements). A two-thirds majority requirement would not seem appropriate. It has already been suggested that voting provisions would have to be settled ad hoc in the light of the circumstances of particular commodity arrangements.

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

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

63
1. Article 13 (Industrial Development). The two-thirds rule (Type 1) might be written into (b) and (c)—permission to use measures inconsistent with obligations under the Charter.

2. Article 38, paragraph 4 (New preferences). The two-thirds rule (Type 1) is already specified as regards criteria and procedures (though not as regards the determination of particular applications or waiver), by the reference to Article 66 (2) and should remain.

3. Article 28 (exceptions from non-discrimination). There might be a case under paragraph 2 (determination that exceptions are being abused) for a two-thirds majority of Type 2.

APPENDIX XIII

Article 68—Second alternative

(1) The Executive Board shall consist of fifteen members of the Organization elected by the Conference, five of whom shall be eligible for immediate re-election.

(2) Subject to the provisions of paragraph (3) one-third of the members of the Executive Board shall be elected each year for a term of three years.

(3) Same as first alternative.

(4) Same as first alternative.

APPENDIX XIV

Article 68—Third alternative

(1) The Executive Board shall consist of fifteen Members of the Organization elected by the Conference. By virtue of their economic importance, six Members shall be appointed as permanent members; nine other Members shall be granted non-permanent seats. The total number of seats may be increased by a decision of the Conference taken with a two-thirds majority of its members.

(2) The non-permanent members of the Executive Board shall be chosen for a period of three years. At the first election of the non-permanent members, three members shall be elected for a term of one year and three others for a term of two years. A retiring member shall not be eligible for immediate re-election.

(3) These elections shall take place in accordance with arrangements to be approved by the Conference by a two-thirds majority of its members.

(4) Each member of the Executive Board shall have one representative who may appoint alternates and advisers.

APPENDIX XV

Article 68—Fourth alternative

(1) The Executive Board shall consist of twenty Members of the Organization.

(2) Subject to the provisions of paragraph (3) one-half of the members of the Executive Board shall serve for a term of five years and shall be appointed by the Members of the Organization having the largest share in the world trade and belonging to the following trade groups; Europe (two Directors), North America (two Directors), Latin America (two Directors), Asia (two Directors), Oceania (one Director) and Africa (one Director). Any change in the relative position in world trade of members shall be taken into consideration at the end of each term of five years.

(3) One-half of the members of the Executive Board shall be elected annually by members of the Conference other than those entitled to appoint a member of the Board in accordance with the provisions of paragraph (2). A retiring member shall be eligible for immediate re-election.

(4) The Conference, upon the recommendation of the Executive Board, shall establish procedures for the purpose of carrying out the provisions of this Article.

(5) Each member of the Executive Board shall have one representative and may appoint alternates and advisers to its representatives.
PART III
Draft General Agreement on Tariffs and Trade

INTRODUCTION

1. The draft Agreement reproduces many provisions of the Charter. Reservations entered by delegates to those provisions of the Charter, which reservations will be found in Part II of this Report apply equally to the corresponding provisions of the draft Agreement.

2. The Drafting Committee considers that there will need to be some provision made for the provisional generalization to the trade of governments not parties to the General Agreement of the tariff of concessions granted under the Agreement pending consideration by the International Conference of the question whether benefits under the Charter should be extended to non-Members of the Organization. However, as the Drafting Committee did not consider the terms of Article 36 of the Charter relating to non-Members, it was decided to defer consideration of this question until a later stage.

3. The delegates for Brazil and New Zealand reserved their positions regarding the non-inclusion in the draft Agreement of provisions relating to export subsidies. The delegates for Brazil and China considered that the provisions of Article 12 of the Charter should be included in the draft Agreement. The delegate for the United States considered that the provisions contained in Article V (Tariff Valuation) and Article XVI (Maintenance of Domestic Employment) should not be included in the draft Agreement.

4. The delegate for Czechoslovakia felt that the same degree of importance should be attached to all of those provisions of the Charter that are to become effective by virtue of the Protocol to the draft Agreement as is attached to the provisions of the Charter which have been reproduced in the Agreement. Should this not be possible by including these provisions in the Agreement (properly adjusted and simplified) he considered it appropriate to restrict the Agreement only to tariffs, preferences and most-favoured-nation treatment and to dispose of all other provisions by including them in the Protocol. The delegate for China associated himself with the last of the comments made by the delegate for Czechoslovakia.

5. The delegate for Australia stated that his government attached particular importance to the terms of the agreement in relation to the coming into force of the terms of the Charter as a whole. It therefore reserved its position as to whether it was desirable to incorporate in the Agreement the whole of the Charter.

6. The draft Agreement is passed on to the Second Session as a working paper without commitment to any government.

The governments of Australia, Belgium, Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Luxembourg, Netherlands, New Zealand, Norway, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom and United States*

Having been appointed by the Economic and Social Council of the United Nations to constitute a Preparatory Committee to make preparations for an International Conference on Trade and Employment;

Having, in fulfilment of this function, prepared and recommended to the said Conference the draft Charter for an International Trade Organization of the United Nations (hereinafter referred to as the Charter) the text of which is set forth in the Report of the Preparatory Committee of the Economic and Social Council

Desiring to further the attainment of the objectives of the said Conference by making effective among themselves such provisions of the above-mentioned draft Charter as are applicable at this stage and thus taking such action prior to the Conference as will constitute concrete achievement capable of generalization to all countries on equitable terms.

Hereby agree as follows:

Article I

(cf. Article 14 of the Charter)

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 or exportation, and with respect to all matters provided for in Article II, and advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for the territory of any other country, shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties respectively.

*2. .................................................................

*If, as expected, Syria also participates in the negotiations, it would also be a party to the Agreement.

*The delegate for Australia stated that his government attached particular importance to the terms of the agreement in relation to the coming into force of the terms of the charter as a whole. It therefore reserved its position as to whether it was desirable to incorporate in the Agreement the whole of the charter.

*This paragraph, relating to exceptions for preferences of certain categories remaining after negotiations, would be agreed upon after the negotiations at the Second Session have been completed. Meanwhile, the provisions of paragraph 2 of Article 14 and Article 24 of the draft Charter would apply.
Article II
(cf. Article 15 of the Charter)
National treatment on internal taxation and regulation

1. The contracting parties agree that neither internal taxes nor other internal charges nor internal laws, regulations or requirements should be used to afford protection directly or indirectly for any national product.

2. The products of the territory of any contracting party imported into the territory of any other contracting party shall be exempt from internal taxes and other internal charges of any kind higher than those imposed, directly or indirectly, on like products of national origin.

3. The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations or requirements affecting their internal sale, offering for sale, transportation, distribution or use of any kind whatsoever. The provisions of this paragraph shall be understood to preclude the application of internal requirements restricting the amount or proportion of an imported product permitted to be mixed, processed or used Provided that any such requirement in force on the day of signature of this Agreement may, subject to the provisions of Article VIII, be continued until the expiration of one year from the day on which this Agreement enters into force. This period may be extended in respect of any product if the Committee provided for in Article XII, (hereinafter referred to as the Committee) concurs that the requirement concerned is less restrictive of international trade than other measures permissible under this Agreement.

4. The provisions of paragraphs 1 and 3 of this Article shall not be construed to prevent the application, consistency with the provisions of Article VIII, of internal laws, regulations or requirements other than taxes relating to the distribution or exhibition of cinematograph films.

5. The provisions of this Article shall not apply to the procurement by governmental agencies of supplies for governmental use and not for resale [nor for use in the production of goods for sale].

Article III
(cf. Article I of the Charter)
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 contracting party when the passage across such territory, with or without trans-shipment, 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 contracting party across whose territory the traffic passes. Traffic of this nature is termed in this Article "traffic in transit." The provisions of this Article shall not apply to the operation of aircraft in transit.

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

3. Any contracting party may require that traffic in transit through its territory be entered at the proper customhouse, but, except in cases of failure to comply with applicable customs laws and regulations, such traffic coming from or going to the territories of other contracting parties 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 contracting parties on traffic in transit to or from the territories of other contracting parties shall be reasonable, having regard to the conditions of the traffic.

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

6. Each contracting party shall accord to products which have been in transit through the territory or any other contracting party 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 territory. Any contracting party shall, however, be free to maintain its requirements of direct consignment (expedition direct) existing on the day of signature of this Agreement 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 contracting party's prescribed method of valuation for duty purposes.

Article IV
(cf. Article 17 of the Charter)

Anti-dumping and countervailing duties

1. No anti-dumping duty or charge shall be imposed on any product of the territory of any contracting party imported into the territory of any other contracting party 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 is less than (a) the comparable price charged for the like product to buyers in the domestic market of the exporting country, or, in the absence of such domestic price, either (b) the highest comparable price at which the like product is sold for export to any third country in the ordinary course of commerce, or (c) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit; with due allowance in each case for differences in conditions and terms of sale, for difference in taxation, and for other differences affecting price comparability.

2. No countervailing duty shall be imposed on any product of the territory of any contracting party imported into the territory of another contracting party in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the production or export of such product in the country of origin or exportation. The term "countervailing duty" shall be understood to mean an additional duty imposed 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 the territory of any contracting party imported into the territory of any other contracting party shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes imposed in the country of origin or exportation upon the like product when consumed domestically, or by reason of the refund of such duties or taxes.

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

5. No contracting party shall impose any anti-dumping or countervailing duty or charge on the importation of any product of the territories of other contracting parties unless it determines that the effect of the dumping or subsidization, as the case may be, is such as materially to injure or threaten to injure an established domestic industry, or is such as to prevent the establishment of a domestic industry.

6. Nothing in this Article shall preclude parties to a regulatory commodity agreement conforming to the principles of Chapter VII of the Charter from incorporating in such agreement provisions prohibiting, as between themselves, the use of anti-dumping duties in cases in which dumping, within the meaning of paragraph 1 of this Article, may be permitted under the terms of such an agreement.

Article V
(cf. Article 18 of the Charter)

Tariff valuation

The contracting parties recognize the validity of the general principles of tariff valuation set forth in the following sub-paragraphs, and they undertake to give effect to such principles, in respect of all products subject to duties, charges or restrictions based upon or regulated in any manner by value, at the earliest practicable date. Moreover, they undertake upon a request by another contracting party, to review the operation of any of their laws or regulations relating to value for duty purposes in the light of these principles. The Committee is authorized to request from contracting parties reports on steps taken by them in pursuance of the provisions of this paragraph.

(*) Alternative A

(a) The value for duty purposes of imported products should be based on the actual value of the kind of imported merchandise on which duty is assessed, or the nearest ascertainable equivalent of such value, and should not be based on the value of products of national origin or on arbitrary or fictitious valuations.

Alternative B

(a) The value for duty of imported products should be based on their actual value as represented by the price at which, at a determined time and place, and in the ordinary course of trade between independent buyer and seller, like goods are sold or offered for...
sale in quantities and under conditions comparable to those under which the imported goods are sold or offered for sale, or the nearest ascertainable equivalent of such value. The value should not be based on the value of products of national origin or on arbitrary or fictitious valuations.

**Alternative C**

(a) Where an actual price of imported products is not accepted as the basis for determining their value for duty purposes, their assessed value should not be based on the value of products of national origin or on arbitrary or spurious valuations, but should satisfy clearly defined and stable conditions which conform with commercial usage.

(b) The value for duty purposes of any imported product should not include the amount of any customs duty or internal tax, applicable within the country of origin or export from which the imported product has been relieved by means of refund or made exempt.

(c) In converting the value of any imported product from one currency to another for the purpose of assessing duty, the rate of exchange to be used should be fixed in accordance with prescribed standards to reflect effectively the current value of each currency in commercial transactions.

(d) The bases and methods for determining the value of products subject to duties, charges or restrictions based upon or regulated by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the amount of duty likely to be imposed.

**Article VI**

(cf. Article 19 of the Charter)

**Customs formalities**

1. The contracting parties recognize the principle that subsidiary fees and charges imposed 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. They also recognize the need for reducing the number and diversity of such subsidiary 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 contracting parties undertake to give effect to the principles and objectives of paragraph 1 of this Article at the earliest practicable date. Moreover, they undertake, upon a request by another contracting party, to review the operation of any of their customs laws and regulations in the light of these principles.

3. Except in cases of serious negligence, greater than nominal penalties over and above the duty properly payable should not be imposed by any contracting party in connection with the importation of any product of the territory of any other contracting party because of errors in documentation which are obviously clerical in origin or with regard to which good faith can be established.

4. The provisions of this Article shall extend to fees, charges, formalities and requirements relating to all customs matters, including:

(a) consular transactions, such as consular invoices and certificates;
(b) quantitative restrictions;
(c) licensing;
(d) exchange regulations;
(e) statistical services;
(f) documents, documentation and certification;
(g) analysis and inspection; and
(h) quarantine, sanitation and fumigation.

**Article VII**

(cf. Article 21 of the Charter)

**Publications and administration of trade regulations**

**Advance notice of restrictive regulations**

1. Laws, regulations, judicial decisions and administrative rulings of general application made effective by any contracting party 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 or insurance, or affecting their warehousing, inspection, processing, mixing or other use, shall be published promptly in such a manner as to enable traders and governments to become acquainted with them. Agreements in force between the government or a governmental agency of any contracting party and the government or a governmental agency of any other country affecting international trade policy shall also be published. This paragraph shall not require any contracting party to disclose confidential information which would impede law enforcement, or otherwise be contrary to
the public interest or would prejudice the legitimate business interests of particular enterprises, public or private.

2. Each contracting party 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.

3. No administrative ruling of any contracting party effecting an advance in a rate of import duty or other charge under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefor, shall, as a general rule, and within the limits of administrative practicability, be applied to products of the territory of any other contracting party already en route at the time of publication thereof in accordance with paragraph 1 of this Article, Provided that if any contracting party customarily exempts from such new or increased obligation products entered for consumption or withdrawn from warehouse for consumption during a period of thirty days after the date of such publication, such practice shall be considered in full compliance with this paragraph. The provisions of this paragraph shall not apply to anti-dumping or countervailing duties.

Article VIII

Schedules of concessions on particular products*

1. Each contracting party shall accord to the commerce of the other contracting parties the treatment provided for in the appropriate Schedule annexed to this Agreement and made an integral part hereof.

2. No contracting party shall alter the general principles applicable in its territory for determining dutiable value and converting currencies so as to impair the value of any of the concessions provided for in the appropriate Schedule annexed to this Agreement.

3. If any contracting party, after the day of signature of this Agreement, established or authorizes, formally or in fact, an effective monopoly of the importation of any product for which a maximum rate of duty is provided in the appropriate Schedule annexed to this Agreement, the price for such imported product charged by the monopoly in the home market shall not exceed the landed cost (before payment of any duty) by more than such maximum duty; after due allowance for internal taxes, transportation, distribution and other expenses incident to purchase, sale or further processing and for a reasonable margin of profit. For the purpose of applying this margin regard may be had to average landed costs and selling prices of the monopoly over recent periods. The monopoly shall, as far as administratively practicable, and subject to the other provisions of this Agreement, import from the territories of contracting parties and offer for sale at prices charged within such maximum margin 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.

Article IX

(cf. Article 25 of the Charter)

General elimination of quantitative restrictions

1. Except as otherwise provided in this Agreement, no prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import licenses or other measures, shall be imposed or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

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

(a) Prohibitions or restrictions on imports or exports instituted or maintained during
the early post-war transitional period which are essential to

(i) The equitable distribution among the several consuming countries of products in short supply, whether such products are owned by private interests or by the government of any contracting party;

(ii) The maintenance of wartime price control by a contracting party undergoing shortages subsequent to the war;

(iii) The orderly liquidation of temporary surpluses of stocks owned or controlled by the government of any contracting party or of industries developed in the territory of any contracting party owing to the exigencies of the war, which it would be uneconomic to maintain in normal conditions Provided that prohibitions or restrictions for this purpose may not be instituted by any contracting party after the date on which this Agreement enters into force except after consultation with other interested contracting parties with a view to appropriate international action.

Import and export prohibitions and restrictions instituted or maintained under subparagraph (a) shall be removed as soon as the conditions giving rise to them have ceased, and in any event, not later than 1 July 1949, Provided that this period may, with the concurrence of the Committee, be extended in respect of any product for further periods not to exceed six months each.

(b) Export prohibitions or restrictions temporarily applied to relieve critical shortages of foodstuffs or other essential products in the territory of the exporting contracting party.

(c) Import and export prohibitions or restrictions necessary to the application of standards for the classification and grading of commodities in international trade.

(d) Export or import quotas applied under regulatory inter-governmental commodity agreements conforming to the principles of Chapter VII of the Charter.

(e) 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 of the like domestic product permitted to be marketed or produced, or (ii) to remove a temporary surplus of the like domestic product by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level. Any contracting party imposing 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) of this sub-paragraph 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 the restrictions. In determining this proportion the contracting party 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. The contracting party shall consult with any other contracting parties which are interested in the trade in question and which wish to initiate such consultations.

(f) Import and export prohibitions or restrictions on private trade for the purpose of establishing a new, or maintaining an existing, monopoly of trade for a state-trading enterprise operated under Article XV.

Article X
(cf. Article 26 of the Charter)

Restrictions to safeguard the balance of payments

1. Contracting parties may need to use import restrictions as a means of safeguarding their external financial position and as a step toward the restoration of equilibrium in their balance of payments on a sound and lasting basis, particularly in view of their increased demand for imports needed to carry out their domestic employment, reconstruction, development or social policies. Accordingly, notwithstanding the provisions of Article IX, any contracting party may restrict the quantity or value of merchandise permitted to be imported insofar as this is necessary to safeguard its balance of payments and monetary reserves.

2. The use of import restrictions under paragraph 1 of this Article shall be subject to the following requirements:

(a) No contracting party shall institute (or maintain) new restrictions or intensify existing restrictions except to the extent necessary to stop or to forestall the imminent threat of, or to stop, a serious decline in the level of its monetary reserves or, in the case of a contracting party with very low monetary reserves, to achieve a reasonable rate of increase in its reserves. Due regard should be
paid in each case to any special factors which may be affecting the level of the contracting party’s reserves, to any commitments or other circumstances which may be affecting its need for reserves, and to any special credits or other resources which may be available to protect its reserves.

(b) Contracting parties shall eliminate the restrictions when conditions would no longer justify their imposition [or maintenance] under sub-paragraph (a), and shall relax them progressively as such conditions are approached.

(c) Contracting parties shall not apply the restrictions in such a manner as to exclude completely imports of any class of goods.

3. (a) Any contracting party which is not applying restrictions under paragraphs 1 and 2 of this Article, but which is considering the need for their institution, shall, before instituting such restrictions (or, in circumstances in which prior consultation is impracticable, immediately following upon the institution of such restrictions) consult with the Committee as to the nature of its balance-of-payments difficulties, the various corrective measures which may be available, and the possible effects of such measures on the economies of other contracting parties. The Committee shall invite the International Monetary Fund to participate in the consultations. No contracting party shall be required during such discussions to indicate in advance the choice or timing of any particular measures which it may ultimately determine to adopt.

(b) The Committee may at any time invite any contracting party applying import restrictions under paragraphs 1 and 2 of this Article to consult with it about the form or extent of the restrictions, and shall invite a contracting party substantially intensifying such restrictions to consult accordingly within thirty days. Contracting parties thus invited shall participate in such discussions. In the conduct of such discussions the Committee shall consult the International Monetary Fund and any other appropriate inter-governmental organization, in particular with regard to the alternative methods available to the contracting party in question of meeting its balance-of-payments difficulties. The Committee shall, not later than two years from the day on which this Agreement enters into force, review all restrictions existing on that day and still applied under paragraphs 1 and 2 at the time of the review.

(c) Any contracting party may consult with the Committee with a view to obtaining the prior approval of the Committee for restrictions which the contracting party proposes under paragraphs 1 and 2 of this article to maintain, intensify or institute, or for the maintenance, intensification or institution of restrictions under specified future conditions. The Committee shall invite the International Monetary Fund to participate in the consultations. As a result of such consultations, the Committee may approve in advance the maintenance, intensification or institution of restrictions by the contracting party in question insofar as the general extent, degree and duration of the restrictions are concerned. To the extent to which such approval has been given the action of the contracting party applying restrictions shall not be open to challenge under sub-paragraph (d), on the ground that such action is inconsistent with the provisions of paragraphs 1 and 2 of this Article.

(d) Any contracting party which considers that any other contracting party is applying import restrictions under paragraphs 1 and 2 in a manner inconsistent with the provisions of those paragraphs or of Articles XI and XII, or in a manner which unnecessarily damages its commercial interests, may bring the matter for discussion to the Committee. The contracting party applying the restrictions shall then participate in discussions of the reasons for its action. The Committee, if it is satisfied that there is a prima facie case that the complaining party’s interests are adversely affected, may, after consultation with the International Monetary Fund on any matter falling within the competence of the Fund, and, if it considers it desirable, after submitting observations to the parties with the aim of achieving a satisfactory settlement of the matter in question, recommend the withdrawal or modification of restrictions which it determines are being applied in a manner inconsistent with the provisions of paragraphs 1 and 2 of this Article or of Articles XI and XII or in a manner which unnecessarily damages the interests of another contracting party. If the restrictions are not withdrawn or modified in accordance with the recommendation of the Committee within sixty days, such other contracting party or parties shall be released from such obligations incurred under this Agreement towards the contracting party applying the restrictions as the Committee may approve.

(e) The Committee in reaching its determination under sub-paragraph (d) shall not recommend the withdrawal or general relaxation of restrictions on the ground that the existing or prospective balance-of-payments difficulties of the contracting party in question could be avoided by a change in that contract-
ing party in question could be avoided by a change in that contracting party's domestic employment, reconstruction, development or social policies. In carrying out such domestic policies, however, contracting parties shall pay due regard to the need for restoring equilibrium in the balance of payments on a sound and lasting basis.

4. In giving effect to the restrictions on imports under this Article, a contracting party may restrict imports of products according to their relative essentiality in such a way as to give priority to the importation of products required by its domestic employment, reconstruction, development or social policies and programmes. In so doing the contracting party shall avoid all unnecessary damage to the commercial interests of other contracting parties.

5. If there is persistent and widespread application of import restrictions under this Article, indicating the existence of a general disequilibrium which is restricting international trade, the Committee shall seek consultation with the International Monetary Fund. The Committee may then, in collaboration throughout with the Fund, initiate discussions to consider whether other measures might be taken, either by those contracting parties whose balances of payments are under pressure or by those contracting parties 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 Committee contracting parties shall participate in such discussions.

6: Contracting parties recognize that during the next few years all of them will be confronted in varying degrees with problems of economic adjustment resulting from the war. During this period the Committee shall, when required to take decisions under this Article or under Article XII, take full account of the difficulties of postwar adjustment.

7. Throughout this Article and Articles XI and XII the phrase "import restrictions" includes the restriction of imports by state-trading enterprises to an extent greater than that which would be permissible under Article VIII.

Article XI
(cf. Article 27 of the Charter)

Non-discriminatory administration of quantitative restrictions

1. No prohibition or restriction shall be applied by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation of any product destined for the territory of any other contracting party, 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. Contracting parties shall observe the following provisions in applying import restrictions:

(a) The administration of the restrictions should be carried out in such a way as to result in a distribution of trade which approaches as closely as possible to the shares which the various contracting parties might be expected to obtain as the result of international competition in the absence of restrictions.

(b) 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.

(c) In cases in which quotas are not practicable, the restrictions may be applied by means of import licenses or permits without a quota.

(d) Import licenses or permits, whether or not issued in connection with quotas, shall not (save for purposes of operating quotas allocated in accordance with sub-paragraph (e)) require or provide that the license or permit be utilized for the importation of the product concerned from a particular country or source.

(e) In cases in which a quota is allocated among supplying countries, the shares of the various supplying contracting parties should in principle be determined in accordance with commercial considerations such as, e.g., price, quality and customary sources of supply. For the purpose of appraising such commercial considerations, the contracting parties applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other contracting parties having a substantial interest in supplying the product concerned. In cases in which this method is not reasonably practicable, the contracting party concerned shall allot to contracting parties having a substantial interest in supplying the product, shares based upon the proportions supplied from the territories of such contracting parties 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
contracting party 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 licenses are issued in connection with import restrictions, the contracting party applying the restriction shall provide, upon the request of any contracting party having an interest in the trade in the product concerned, all relevant information as to the administration of the restriction, the import licenses granted over a past recent period and the distribution of such licenses 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 if import restrictions involving the fixing of quotas, the contracting party 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 contracting party 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 contracting party applying the restriction shall promptly inform all other parties having an interest in supplying the product concerned of the shares in the quota, by quantity or value, currently allocated to the various supplying countries and shall give public notice thereof.

4. With regard to restrictions applied in accordance with sub-paragraph 2 (e) of this Article or under sub-paragraph 2 (e) of Article IX, 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 contracting party applying the restriction, Provided that such contracting party shall, upon the request of any other contracting party having a substantial interest in supplying that product or upon the request of the Committee, consult promptly with the other contracting party or with the Committee regarding the need for an adjustment of the base period selected or for the re-appraisal of the special factors involved.

5. The provisions of this Article shall apply to any tariff quota established or maintained by any contracting party and insofar as is applicable the principles of this Article shall also extend to export restrictions and to any internal regulations or requirements under paragraphs 3 and 4 of Article II.

Article XII
(cf. Article 28 of the Charter)

Exceptions to the rule of non-discrimination

1. The provisions of Articles IX, X and XI 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;

(b) Prohibitions or restrictions in accordance with sub-paragraph 2 (a) (i) or 2 (d) of Article IX;

(c) Conditions attaching to exports which are necessary to ensure that an exporting country receives for its exports its own currency or the currency of any member of the International Monetary Fund specified by the exporting country;

(d) Restrictions in accordance with Article X which either

(i) are applied against imports from other countries but not as between themselves by a group of territories having a common quota in the International Monetary Fund, Provided that such restrictions are in all other respects consistent with Article XI, or

(ii) Assist in the period until 31 December 1951, by measures not involving substantial departure from the provisions of Article XI a country whose economy has been disrupted by war;

(e) Restrictions in accordance with Article X which both

(i) Provide a contracting party with additional imports above the maximum total of imports which it could afford in the light of the requirements of paragraph 2 of Article X if its restrictions were consistent with Article XI, and

(ii) Have equivalent effect to exchange
restrictions, which are permitted to that contracting party under the Articles of Agreement of the International Monetary Fund or under the terms of any special exchange agreement, which may have been made between the contracting party and the Committee under Article XIII, Provided that a contracting party, which is not applying restrictions on payments and transfers for current international transactions, may apply import restrictions under (i) of this sub-paragraph in special circumstances and only with the prior approval of the Committee in agreement with the International Monetary Fund.

2. If the Committee finds, after consultation with the International Monetary Fund on matters within the competence of the Fund, that import restrictions or exchange restrictions on payments and transfers in connection with imports are being applied by a contracting party in a discriminatory manner inconsistent with the exceptions provided under this Article or in a manner which discriminates unnecessarily against the trade of another contracting party, the contracting party shall within sixty days remove the discriminations or modify it as specified by the Committee, Provided that a contracting party may, if it so desires, consult with the Committee to obtain its prior approval for such discrimination, under the procedure set forth in paragraph 3 (c) of Article X and to the extent that such approval is given, the discrimination shall not be open to challenge under this paragraph.

3. When three-quarters of the contracting parties of the Organization have accepted the obligations of Sections 2, 3 and 4 of Article VIII of the Articles of Agreement of the International Monetary Fund, but in any event before 31 December 1951, the Committee shall review the operation of this Article, in consultation with the International Monetary Fund, with a view to the earliest possible elimination of any discrimination, under subparagraphs 1 (e) (i) and (ii) of this Article, which restricts the expansion of world trade.

Article XIII
(cf. Article 29 of the Charter)

Exchange arrangements

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

2. Contracting parties shall not seek by exchange action to frustrate the provisions of this Agreement and shall not seek by trade action to frustrate the purposes of the International Monetary Fund.

3. In order to avoid the imposition of trade restrictions and discriminations through exchange techniques and in order to avoid the danger of conflicting jurisdiction between the Committee and the International Monetary Fund in exchange matters, the contracting parties shall also undertake membership of the International Monetary Fund, Provided that any government which is not a member of the International Monetary Fund may accept this Agreement if, upon acceptance, it undertakes to enter as soon as possible into special exchange agreement with the Committee which would become part of its obligations under this Agreement, and Provided further that a contracting party which ceases to be a member of the International Monetary Fund shall forthwith enter into a special exchange agreement with the Committee, which shall then become part of its obligations under this Agreement.

4. A special exchange agreement between a contracting party and the Committee under paragraph 3 of this Article must provide to the satisfaction of the Committee, collaborating throughout with the International Monetary Fund, that the purposes common to the Committee and the Fund will not be frustrated as a result of action in exchange matters by the contracting party in question.

5. A contracting party which has made such an agreement undertakes to furnish the Committee with the information which it may require, within the general scope of Section 5 of Article VIII of the Articles of Agreement of the International Monetary Fund, in order to carry out its functions relating to such agreement.

6. The Committee shall seek and accept the opinion of the International Monetary Fund as to whether action by the contracting party in exchange matters is permissible under the terms of the special exchange agreement and shall act in collaboration with the International Monetary Fund on all questions which may arise in the working of a special exchange agreement under this Article.

Article XIV
(cf. Article 30 of the Charter)

General undertaking regarding subsidies

If any contracting party grants or maintains any subsidy, including any form of income or price support, which operates directly or in-
directly to increase exports of any product from, or to reduce imports of any product into its territory, the contracting party shall notify the Committee in writing as to the extent and nature of the subsidization, as to the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from the territory of the contracting party and as to the conditions making the subsidization necessary. In any case in which it is determined, by consultation through the Committee among the contracting parties having an important interest in the trade in the product concerned, that serious prejudice to the interest of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidization shall, upon request, discuss with the other contracting party or contracting parties concerned, or with the Committee, the possibility of limiting the subsidization.

Article XV
(cf. Article 31 of the Charter)
Non-discriminatory administration of State-trading enterprises

1. If any contracting party establishes or maintains a state enterprise, wherever located, which imports, exports, purchases, sells, or distributes any product, or if any contracting party grants exclusive or special privileges, formally or in effect, to any enterprise to import, export, purchase, sell, distribute or produce any product, the commerce of other contracting parties shall be accorded treatment no less favourable than that accorded to the commerce of any country other than that in which the enterprise is located in respect of the purchase or sale by such enterprise of any product. To this end such enterprise shall, in making its external purchases or sales of any product, be influenced solely by commercial considerations, such as price, quality, marketability, transportation and other terms of purchase or sale, having due regard to any differential customs treatment maintained consistently with the other provisions of this Agreement.

2. The provisions of paragraph 1 relating to purchases or imports by state enterprises shall apply to purchases or imports of products for re-sale [or for use in the production of goods for sale]. With respect to purchase or imports by state enterprises of products for governmental use and not for re-sale [or for use in the production of goods for sale] contracting parties shall accord to the commerce of other contracting parties fair and equitable treatment, having full regard to all relevant circumstances.

3. This Article shall apply to any enterprise, organ or agency in which there is effective control by the Government of a contracting party [or over whose trading operations the government of a contracting party exercises effective control by virtue of the special or exclusive privileges granted to the enterprise] [or over whose trading operations a government is under the arrangements providing for the special or exclusive privileges granted to the enterprise, legally entitled to exercise effective control].

Article XVI
(cf. Article 4 of the Charter)
Maintenance of domestic employment

1. Each contracting party shall take action designed to achieve and maintain full and productive employment and high and stable levels of effective demand within its own jurisdiction through measures appropriate to its political, economic and social institutions.

2. Measures to sustain employment and demand shall be consistent with the other purposes and provisions of this Agreement and in the choice of such measures each contracting party shall seek to avoid creating balance-of-payments difficulties for other contracting parties.

Article XVII
(cf. Article 13 of the Charter)
Government assistance to economic development

1. The contracting parties recognize that special governmental assistance may be required in order to promote the establishment or reconstruction of particular industries and that such assistance may take the form of protective measures. At the same time the contracting parties recognize that an unwise use of such measures would impose undue burdens on their own economies and unwarranted restrictions on international trade and might increase unnecessarily the difficulties of adjustment for the economies of other countries.

2. (a) If a contracting party, in the interest of its programme of economic development, considers it desirable to adopt any protective measure which would conflict with any other provision of this Agreement, it shall so notify the Committee and shall transmit to the Committee a written statement of the considerations in support of the adoption of the proposed measure. The Committee shall
promptly inform those contracting parties whose trade would be substantially affected by the proposed measure and afford them an opportunity of presenting their views. The Committee shall then promptly examine the proposed measure in the light of the provisions of this Agreement and the considerations presented by the applicant contracting party, the views presented by the other contracting parties which would be substantially affected by the proposed measure, and such criteria as to productivity and other factors as it may establish, taking into account the stage of economic development or reconstruction of the contracting party.

(b) If, as a result of its examination pursuant to sub-paragraph (a), the Committee concurs in any measure which would be inconsistent with any obligation which the applicant contracting party has assumed under Article VIII of this Agreement, or which would tend to nullify or impair the benefit to such other contracting party or parties of any such obligation, the Committee shall sponsor and assist in negotiations between the applicant contracting party and the other contracting party or parties which would be substantially affected, with a view to obtaining substantial agreement. Upon such agreement being reached the Committee may release the applicant contracting party from the obligation in question or from any other relevant obligation under this Agreement, subject to such limitations as may have been agreed upon in the negotiations between the contracting parties concerned or such further limitations as the Committee may impose.

(c) If, as the result of its examination pursuant to sub-paragraph (a), the Committee concurs in any measure, other than those provided for in sub-paragraph (b), which would be inconsistent with any other provision of this Agreement, the Committee may release the applicant contracting party from any obligation under such provision, subject to such limitations as the Committee may impose.

Article XVIII
(cf. Article 34 of the Charter)

Emergency action on imports of particular products

1. If, as a result of unforeseen developments and of the effect of any obligations incurred under or pursuant to this Agreement, any product is being imported into the territory of any contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products (or, in the case of a product which is the subject of a concession with respect to a preference, is being imported under such conditions as to cause or threaten serious injury to producers in a territory which receives or received such preference), the contracting party shall be free to suspend the obligation in respect of such product in whole or in part, or to withdraw or modify the concession to the extent and for such time as may be necessary to prevent such injury.

2. Before any contracting party shall take action pursuant to the provisions of paragraph I of this Article, it shall give notice in writing to the Committee as far in advance as may be practicable and shall afford the Committee and those contracting parties having a substantial interest as exporters of the product concerned, an opportunity to consult with it in respect of the proposed action. In critical and exceptional circumstances such action may be taken provisionally without prior consultation, Provided that consultation shall be effected immediately following upon the taking of such action.

3. If agreement among the interested contracting parties with respect to the action is not reached, the contracting party which proposed to take or continue the action, shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting parties shall then be free, not later than sixty 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 Committee, the application to the trade of the contracting party taking such action, of such substantially equivalent obligations or concessions under this Agreement the suspension of which the Committee does not disapprove. In cases of abuse the Committee may authorize an affected contracting party to suspend obligations or concessions in addition to those which may be substantially equivalent to the action originally taken.

Article XIX
(cf. Article 35 of the Charter)

Consultation—Nullification or impairment

1. Each contracting party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as may be made by any other contracting party 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 Agreement and shall, in the course of such consultation provide the other contracting party with such information as will enable a full and fair appraisal of the situation which is the subject of such representations.

2. If any contracting party should consider that any other contracting party is applying any measure, whether or not it conflicts with the terms of this Agreement or of its protocols or that any situation exists, which has the effect of nullifying or impairing any object of this Agreement or of such Protocol, the contracting party or parties concerned shall give sympathetic consideration to such written representations or proposals as may be made with a view to affecting a satisfactory adjustment of the matter. If no such adjustment can be affected, the matter may be referred to the Committee, which shall, after investigation, and, if necessary, after consultation with the Economic and Social Council of the United Nations and any appropriate inter-governmental organizations, make appropriate recommendations to the contracting parties concerned. The Committee, if it considers the case serious enough to justify such action, may authorize a contracting party or parties to suspend the application to any other contracting party or parties of such specified obligations or concessions under this agreement as may be appropriate in the circumstances. If such obligations or concessions are in fact suspended, any affected contracting party shall then be free, not later than sixty days after such action is taken, to withdraw from this Agreement upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Committee.

Article XX
(cf. Article 37 of the Charter)

General exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

(a) Necessary to protect public morals;

(b) For the purpose of protecting human, animal or plant life or health if corresponding domestic safeguards under similar conditions exist in the importing country;

(c) Relating to fissionable materials;

(d) Relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on for the purpose of supplying a military establishment;

(e) In time of war or other emergency in international relations, relating to the protection of the essential security interests of a contracting party;

(f) Relating to the importation or exportation of gold or silver;

(g) Necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, such as those relating to customs enforcement, deceptive practices, and the protection of patents, trade marks and copyrights;

(h) Relating to the products of prison labour;

(i) Imposed for the protection of national treasures of artistic, historic or archaeological value;

(j) Relating to the conservation of exhaustible natural resources if such measures are taken pursuant to international agreements or are made effective in conjunction with restrictions on domestic production or consumption;

(k) Undertaken in pursuance of obligations under the United Nations Charter for the maintenance or restoration of international peace and security.

Article XXI
(cf Article 38 of the Charter)

Territorial application—Frontier traffic—Customs unions

1. In the application of the provisions of this Agreement the territory of each contracting party shall be considered as a single customs territory provided that if there are two or more customs territories under the jurisdiction of any contracting party, each such customs territory shall be considered as though it were a separate contracting party.

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

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

(b) The formation of a customs union, Provided that the duties and other regulations of commerce imposed by any such union in respect of trade with contracting parties shall not on the whole be higher or more strin-
gent than the average level of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union.

3. Any contracting party proposing to enter into a customs union shall consult with the Committee and shall make available to the Committee such information regarding the proposed union as will enable it to make such reports and recommendations to contracting parties as it may deem appropriate.

4. The contracting parties recognize that there may in exceptional circumstances be justifications for new preferential arrangements requiring an exception to the provisions of this Agreement. Any such exception shall conform to the criteria and procedures which may be established under paragraph 5 of Article XXII.

5. For the purpose of this Article a customs territory shall be understood to mean any territory within which separate tariffs or other regulations of commerce are maintained with respect to a substantial part of the trade of such territory. 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 by each of the members of the union to the trade of territories not included in the union.

Article XXII

Functions and structure of the Interim Trade Committee

1. An Interim Trade Committee is hereby established on which each contracting party shall have one representative.

2. The Committee is authorized to perform such functions as are specifically provided for in the other provisions of this Agreement and generally to perform any other functions which may be appropriate or necessary for the full implementation of this Agreement and its accompanying Protocol.

3. Each representative on the Committee shall have one vote.

4. Subject to the provisions of paragraph 5 of this Article, decisions of the Committee shall be taken by a majority of the representatives present and voting.

5. The Committee may, by a vote of two-thirds of its members, adopt criteria and procedure, including voting procedures, for waiving, in exceptional circumstances, obligations incurred under this Agreement.

6. As soon as the International Trade Organization has been established and is capable of exercising its functions, the Committee may be dissolved by the procedure laid down in paragraph 3 of Article XXIII and its functions and assets transferred to the Organization.*

Article XXIII

Revision, amendment and termination

1. This Agreement may be amended or revised, by the procedure laid down in paragraph 3 of this Article, in the light of the provisions of the Charter for an International Trade Organization drafted by the International Conference on Trade and Employment, or otherwise.

2. In the event of the dissolution of the Committee under paragraph 6 of Article XXII, this Agreement shall be terminated, provided that those contracting parties which become Members of the International Trade Organization may provide that such obligations under this Agreement as they may specify shall continue in force between themselves as part of the relevant provisions of the said Charter.

3. A decision of the Committee to amend, revise or terminate this Agreement under this Article or to dissolve the Committee under paragraph 6 of Article XXII shall become effective upon its formal acceptance by two-thirds of the contracting parties, communicated to the Secretary-General of the United Nations within such period as the Committee may specify.

4. Any contracting party, which does not communicate its acceptance of such decision within the time specified, shall cease to be a member of the Committee and a party to this Agreement, provided that it may be readmitted with the concurrence of all the contracting parties, which have accepted such decision, upon such conditions as they may prescribe.

Article XXIV

Interpretation and settlement of disputes

1. Texts of this Agreement in the official languages of the United Nations shall be regarded as equally authoritative.

*It may be necessary to include in this Article a provision regarding contributions to the expenses of the Committee.
2. Any dispute arising out of the interpretation or operation of this Agreement shall be referred to the Committee which shall deal with it in such manner as it deems appropriate.

Article XXV
Entry into force and withdrawal

1. The original of this Agreement shall be deposited with the Secretary-General of the United Nations, who will furnish certified copies thereof to all interested governments.

2. Each government accepting this Agreement shall deposit an instrument of acceptance with the Secretary-General of the United Nations, who will inform all interested governments of the date of deposit of each instrument of acceptance and of the date on which this Agreement enters into force under paragraph 3.

3. This Agreement shall enter into force on the thirtieth day following the day in which instruments of acceptance have been deposited with the Secretary-General of the United Nations on behalf of [all] [a stated number] of the governments represented on the Preparatory Committee of the International Conference on Trade and Employment.

4. Each government accepting this Agreement does so in respect of the metropolitan territory and of such other territories for which it has international responsibility with the exception of those territories which are self-governing in respect of matters provided for in this Agreement. Each accepting government shall notify the Secretary-General of the United Nations of its acceptance of this Agreement on behalf of any such self-governing territory willing to undertake the obligations of this Agreement, and upon the date specified in such notification the provisions of this Agreement shall become applicable to that territory.

5. Each contracting party shall take such reasonable measures as may be available to it to assure observance of the provisions of this Agreement by subordinate governments and authorities within its territory.

6. Without prejudice to the provisions of Article XIX, any contracting party may withdraw from this agreement, either on its own behalf or on behalf of one of its territories which is at the time self-governing in the respect mentioned in paragraph 4 of this Article, after the expiration of three years from the day on which this Agreement enters into force, by written notification addressed to the Secretary-General of the United Nations. The Secretary-General will immediately inform all other contracting parties. The withdrawal shall take effect six months from the date of the receipt of the notification by the Secretary-General.

Article XXVI
Adherence

The Committee shall as necessary evolve procedures under which governments not parties to this Agreement may adhere to it on terms to be agreed between such governments and the Committee.

Article XXVII
The Protocol

The annexed Protocol signed this day is hereby made an integral part of this Agreement.

DRAFT PROTOCOL TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The Governments of Australia, Belgium, Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Luxembourg, Netherlands, New Zealand, Norway, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom and United States of America

Having this day undertaken, in the General Agreement on Tariffs and Trade, to bring into force among themselves measures for the liberalization of world commerce provided for in Chapter V of the Charter referred to in the Preamble to such Agreement

Recognizing the close relationship between such measures and the fulfillment of the broad purposes and provisions of the Charter as a whole

Have agreed as follows:

1. They undertake to be guided in their international economic relations by the following purposes, in accordance with Chapter I of the Charter

(a) To promote national and international action:

(i) designed to realize the objectives set forth in the Charter of the United Nations and particularly in Article 55 (a) thereof, namely, higher standards of living, full employment, and conditions of economic and social progress and development;

(ii) for the expansion of the production, exchange and consumption of goods, for the achievement and maintenance in all
countries of high and steadily rising levels of effective demand and real income, for the development of the economic resources of the world and for the reduction of tariffs and other trade barriers and the elimination of all forms of discriminatory treatment in international commerce;

(iii) to avoid excessive fluctuations in world trade and contribute to a balanced and expanding world economy.

(b) To further the enjoyment by all contracting parties, on equal terms, of access to the markets, products and productive facilities which are needed for their economic prosperity and development.

(c) To encourage and assist the industrial and general economic development of the contracting parties, particularly of those still in the early stages of industrial development.

(d) To facilitate the solution of problems in the field of international trade, employment and economic development through consultation and collaboration.

(e) To enable contracting parties by increasing the opportunities for their trade and economic development on a mutually advantageous basis, to avoid recourse to measures which disrupt world commerce, reduce productive employment or retard economic progress.

2. Pending their acceptance of the Charter in accordance with their constitutional procedures and the entry into force of the Charter, they also undertake to observe, and to make effective to the fullest extent of their authority, all of the principles and provisions of the following Chapters of the Charter:

- III. Employment, demand and economic activity
- IV. Economic development
- V. General commercial policy
- VI. Restrictive business practice
- VII. Inter-governmental commodity arrangements
ANNEXES

ANNEX 1
Resolution regarding the appointment of a Drafting Committee

Whereas the Preparatory Committee has decided to convene a Second Session at Geneva on 8 April 1947.

And whereas it is desirable that further drafting be done on the basis of the work carried out at the First Session before the Commencement of the Second Session

The Preparatory Committee of the International Conference on Trade and Employment

Hereby appoints a Drafting Committee consisting of representatives of members of the Preparatory Committee to meet in New York beginning 20 January 1947, for the purpose of preparing a Draft Charter based upon the report and other documents of the First Session of the Preparatory Committee,

It is resolved that

1. It will be the function of the Drafting Committee to prepare a Draft Charter or Articles of Agreement, editing for clarity and consistency the portions of the text on which the Preparatory Committee has come to a substantial identity of views, preparing alternative drafts of those portions on which there remains a division of general views and preparing suggested drafts covering such uncompleted portions as are referred to it by the Preparatory Committee, together with such explanatory notes and commentaries as the Drafting Committee may consider desirable and useful.

2. The Drafting Committee should prepare a report for consideration by the Preparatory Committee at its Second Session.

3. The Drafting Committee should complete its work with all possible dispatch and in any case not later than 28 February 1947; in order that its report may be forwarded to governments for consideration in advance of the Second Session of the Preparatory Committee.

It is suggested that members appoint to the Drafting Committee not more than two or three technical experts drawn as far as possible from the delegation which have participated in the work of the First Session of the Preparatory Committee.

ANNEX 2
Agenda

1. Opening statement by the Acting Secretary-General.
2. Discussion and adoption of the rules of procedure of the Drafting Committee
3. Election of the Chairman.
4. Election of the Vice-Chairman.
5. Adoption of the provisional agenda.
6. Discussion of the methods of work of the Drafting Committee.
7. Discussion and examination of the Report of the First Session of the Preparatory Committee:
   (a) Chapter III. Employment.
   (b) Chapter IV. Economic Development.
   (c) Chapter V. General Commercial Policy (together with the Memorandum on Multilateral Trade-Agreement Negotiations).
   (d) Chapter VI. Restrictive Business Practices.
   (e) Chapter VII. Inter-governmental Commodity Arrangements.
   (f) Chapter I. Purposes.
   (g) Chapter II. Membership.
   (h) Chapter VIII. Organization.
8. Preparation and adoption of the Report of the Drafting Committee to the Second Session of the Preparatory Committee, consisting of a Draft Charter or Articles of Agreement based upon the report and other documents of the First Session of the Preparatory Committee, together with such explanatory notes and commentaries as the Drafting Committee may consider desirable and useful.
9. Other items.

ANNEX 3
Revised list of countries and delegates to the Drafting Committee

AUSTRALIA
Mr. C. E. Morton, Assistant Comptroller-General (Tariffs), Department of Trade and Customs.
Mr. J. G. Phillips, Assistant Economist, Commonwealth Bank of Australia, representing Department of the Treasury.
Mr. A. H. Tange, First Secretary (Economic), Australian Delegation to the United Nations.

BELGIUM-LUXEMBOURG
Mr. J. Jussiant, Head of the Belgian Economic Mission, London.
Baron P. de Gaiffier, First Secretary, Belgian Embassy, London.

BRAZIL
Senhor Octavio Paranagua, Alternate Executive Director, International Monetary Fund, Washington, D. C. (Head)
Senhor José Garrido Torres, Director, Brazilian Government Trade Bureau, New York.
Senhor Roberto de Oliveira Campos, Second Secretary (Economic), Brazilian Delegation to the United Nations.

CANADA
Mr. Arnold C. Smith, Department of External Affairs.
Mr. Gordon B. Urquhart, Chief Dominion Customs Appraiser, Department of National Revenue, Ottawa.
Mr. F. A. McGregor, Combines Investigation Commissioner of Canada.
Mr. Ian M. MacKeigan, Deputy Commissioner, Combines Investigation Commission, Ottawa, Canada.
CHILE
Señor Pedro Álvarez
Señor Fausto Soto
Señor Raul Fernández
Señor Fernando Dahmen, Secretary of Delegation.

CHINA
Dr. T. T. Chang, Director, Department of Foreign Trade, Ministry of Economic Affairs.
Mr. K. S. Ma, Member, Tariff Commission, Ministry of Finance.

CUBA
Dr. Rufo López Fresquet, Representative of the Treasury in the National Economic Board, Technical Adviser to the Ministry of Finance.
Dr. José Antonio Guerra, Representative of the Treasury in the National Economic Board and Statistical Adviser to the Finance Ministry.
Dr. Guillermo Alamilla, Legal Counsellor to the Cuban Sugar Institute.
Señor Erasmo de la Torre, Secretary of Delegation.

CZECHOSLOVAKIA
Mr. Ladislav Radimsky, Head (Czechoslovak Delegation to the United Nations).
Mr. Bohuslav J. Bayer, Alternate (Czechoslovak Minister of Foreign Trade, Division of Commercial Policy).
Mr. Lucian Benda, Czechoslovak Ministry of Foreign Affairs, Economic Department.
Mr. Benes, Ministry of Finance.

FRANCE
Mr. Ernest Lécuyer, Ministry of Foreign Affairs.
Mr. Jean Royer, Ministry of National Economy.
Mr. Alexandre Kojeve, Ministry of National Economy.
Mlle. Anne Lissac, Ministry of Foreign Affairs.

INDIA
Mr. B. N. Adarkar, M.B.E., Deputy Economic Adviser to the Government of India.
Dr. Anwar Iqbal Qureshi, Economic Adviser to the Hyderabad Government.

LEBANON
Mr. George Hakim, Counselor of Legation of Lebanon, Washington, D. C. and Alternate Delegate to the Economic and Social Council.
Mr. Edward Ghorra, Acting Consul General of Lebanon, New York.

NETHERLANDS
Dr. Simon Korteweg, Administrator, Directorate-General for Foreign Economic Relations.
Professor Doctor E. de Vries, Ministry of Overseas Territories.
Mr. Phoa Liong Gie, Ministry of Overseas Territories.

NEW ZEALAND
Mr. T. O. W. Brebner, Consul General, New York.
Mr. L. S. Nicol, Official Representative of Customs Department, London.

NORWAY
H. E. M. Erik Colban, Ambassador.

UNION OF SOUTH AFRICA
Dr. W. C. Naudé, Economic Adviser to the High Commissioner in the United Kingdom.
Mr. S. G. Sandilands, Representative of Customs Department, New York.

UNITED STATES OF AMERICA
Mr. John Leddy, Representative, Division of Commercial Policy, Department of State.
Dr. H. M. Catudal, Department of State.
Mr. Robert Terrill, Associate Chief, Division of International Resources, Department of State.
Mr. William T. Phillips, Special Assistant on Commodity Policy, International Resources Division, Department of State.
Mr. Edward H. Kellogg, Division of International Organization Affairs, Department of State.

UNITED KINGDOM
Mr. R. J. Shackleton, C.M.G., Board of Trade (Head).
Miss M. Turnbull (Personal Assistant to Mr. Shackleton).
Mr. J. E. S. Fawcett, Foreign Office (Legal Adviser).
Miss M. F. Hardie, Board of Trade.

OBSERVERS
Food and Agriculture Organization
Mr. McDougal
Mr. Karl Olsen
Mr. Paul Lamartine Yates
Mr. Mordecai Ezekiel
International Labour Office
Mr. D. C. Tait
International Bank
Mr. Anzel F. Luxford
International Monetary Fund
Mr. Ervin P. Hexner

MEXICO
Señor Luis Ibsrgüen, Secretary of the Mexican Embassy, Washington, D. C.

COLOMBIA
Señor Alberto Samper.