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

DRAFT CHARTER

CHAPTER 4 AND RELATED PARTS OF CHAPTER 8

Amendments Proposed by the Australian Delegation

The words in square brackets are proposed for deletion. The words underlined are proposed for addition.

ARTICLE 10
Development of Domestic Resources and Productivity

Recognising that all countries have a common interest in the productive use of the world's human and material resources, Members within their respective jurisdictions, and the Organisation generally, 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, with the Organisation and with the Economic and Social Council of the United Nations and appropriate inter-governmental organisations in promoting industrial and general economic development.

It is suggested that the amendments to Articles 10 and 11 are desirable in order to make clear the role which the Organisation should undertake in promoting development.
ARTICLE 12

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 into the jurisdiction of which facilities of the kind specified in paragraph 1 are supplied from sources in the jurisdiction of other Members, 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 shall also in general take no unreasonable action injurious to any related interest of such other Members, business entities or persons of another Member or a particular business entity or person within the jurisdiction of another Member, where such other Member, business entity or person respectively is supplying the facilities.

It is suggested that this paragraph should be re-worded as above, in order to clarify the intention of the paragraph.

ARTICLE 13

2(a). (1) If a member, in the interests 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 or members has assumed through negotiations with any other Member or Members pursuant to Chapter 5, such Member shall notify the Organisation accordingly and shall transmit to the Organisation a written statement of the considerations in support of the adoption of the proposed measure.

(2) The Organisation shall promptly inform those Members whose trade would be substantially affected by the proposed measure and afford them an opportunity of presenting their views and transmit the representations made therein to all other Members.

(3) Any member which considers that its trade would be substantially affected by the proposed measure shall transmit its views to the Organisation within such period as may be prescribed.

(4) The Organisation shall then promptly examine the proposed measure in the light of this chapter and of other relevant provisions of the Charter and in making its examination shall have regard to -

(i) the considerations presented by the applicant member,

(ii) the views presented by members which consider that their trade would be substantially affected by the proposed measure, and,

(iii) such criteria as to productivity and other factors as the Organisation may establish taking into account the stage of economic development or reconstruction of the applicant Member.
(5) At the earliest opportunity the Organisation shall determine whether or not it concurs in the proposed measure or any modification thereof and shall, thereupon, advise members concerned of its determination.

2(b) (1) If, as a result of its determination pursuant to sub-paragraph (a) (5) of this Article, the Organisation 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 5, or which would tend to nullify or impair the benefit to such other member or members of any such obligation, the Organisation shall sponsor and assist in negotiations between the applicant Member and the other member or members which would be substantially affected, with a view to obtaining substantial agreement.

(2) Members undertake that they will commence the negotiations provided for in sub-paragraph (b) (1) of this Article within such period as the Organisation may prescribe and that they will thereafter, unless the Organisation otherwise approves, proceed continuously with such negotiations with a view to reaching substantial agreement as early as practicable.

(3) Upon such substantial agreement being reached the Organisation may release the applicant Member from the obligation referred to in sub-paragraph (b) (1) of this Article or from any other relevant obligation under this Charter subject to such limitations as may have been agreed upon in the negotiations between the members concerned or such further limitations as the Organisation may impose.

2(c) If, as a result of its examination pursuant to sub-paragraph (a) (4) of this Article the Organisation concurs in any measure, other than those provided for in sub-paragraph (b) (1) of this Article, which would be inconsistent with any other provision of this Charter, the Organisation may release the applicant Member from any obligation under such provision subject to such limitations as the Organisation may impose.

3. For the purposes of this Article, the Organisation shall determine procedures so that any submission made by a Member under this Article shall be examined expeditiously with a view to a determination being reached and such release as may be appropriate being granted as early as possible.

The purpose of the amendments to Article 13 proposed above is to ensure that applications under this Article will be dealt with expeditiously.
ARTICLE 13A

Where a Member is, at the time of joining the Organization, using any protective measure which conflicts with the provisions of the Charter or with any obligation which the Member may assume through negotiations with any other Member or Members, the Member shall not, during a period of twelve months of joining the Organization, be required to abandon the use of such measure, unless the Organization, by reason of special circumstances, otherwise determines. Provided, that if a Member who at the time of joining the Organization is using any protective measure of the kind described in this Article desires to continue to use such measure beyond a period of twelve months of joining the Organization, the Member shall, within nine months of joining the Organization, notify the Organization accordingly and, at the same time, transmit to the Organization a statement of the considerations in support of continuance of the measure. On receipt of the notification, the Organization shall deal with the matter in accordance with the provisions of Article 13 as if the protective measure, the use of which it is desired to continue, was one which the Member desired to adopt in the interests of its programme of economic development, provided that, in determining what release, if any, should be granted to the applicant Member, the Organization shall take into account the need of the Member to provide for an orderly transition where one measure of protection requires to be replaced by a different or modified measure of protection.

The purpose of this new Article is to provide an interim period to enable the view of the Organization to be obtained as to continuance, modification or abandonment of protective measures conflicting with the Charter in operation when a member first joins I.T.O.

ARTICLE 66

9. The Conference shall determine procedures required by Chapter 4 except that it may prescribe that such procedures may be modified by the Executive Board or by the Director-General in certain circumstances.

The purpose of this amendment is first to make provision for determination of procedures required under Chapter 4 and secondly to provide that there may be maximum flexibility regarding the operation of such procedures.

ARTICLE 72

ESTABLISHMENT.

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

ARTICLE 77A

Functions of the Commission on Economic Development

The Commission on Economic Development shall have the following functions —

(a) to advise and make recommendations to the Executive Board on all matters relevant to the operation of Chapter 4.

(b) to develop and recommend to the Executive Board policies and programmes for the carrying out of the functions and responsibilities of the Organization specified in Chapter 4.