CHAPTER VII
(Articles 46-60).

INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS

ANNOTATED AGENDA.

This Agenda is to be read in conjunction with the Report of the Drafting Committee (E/PC/T/34), called "D.C. Report" below.

It incorporates reservations and amendments and referred to in the Report of the Drafting Committee and all proposals handed to the Secretariat by Delegations up to Saturday, 31st May 1947. Underlining indicates additions to, and square brackets deletions from, the text of the D.C. Report.

The following E/PC/T papers contain comments by various delegations on their proposals regarding Chapter VII:

- Australian Delegation - W/154
- Czechoslovak - W/148
- French - W/156
- Indian - W/145
- United Kingdom - W/137
- United States - W/153

GENERAL COMMENTS:

1. Rearrangement of Chapter:

   The United Kingdom (W/137) and Australian (W/154) Delegations have suggested rearrangement of the Articles of the Chapter.

2. Functions of Specialized Agencies in relation to Commodity Arrangements:

   The French Delegation considers it desirable to mention in the Preparatory Committee's Report that the Economic and Social Council should study the question whether a division of competence should not be made as between the Food and Agriculture Organizations on the one hand and the International Trade Organization on the other hand, in connection with the formulation and application of inter-governmental commodity arrangements.

3. Reservation to whole Chapter:

   The Brazilian Delegation has reserved its position on the whole Chapter insofar as its operation might interfere with the production of primary commodities for home consumption (D.C. Report, page 38).
4. **Suggested Amendments to Chapter V concerning the subject matter of Chapter VII:**

**Article 37:**

The United Kingdom Delegation suggests that a reference to Chapter VII should be inserted in Article 37 ("General Exceptions") in the following form:

"(1) Undertaken in pursuance of obligations under inter-governmental commodity arrangements concluded in accordance with the provisions of Chapter VII."

The Indian Delegation proposes the same insertion as the United Kingdom with the addition of the following words:

"under the sponsorship of the Food and Agriculture Organization".

In both cases the proposed addition to Article 37 would involve the deletion of sub-paragraph (d) of paragraph 2 of Article 25.

**ARTICLE 46**

**DIFFICULTIES RELATING TO PRIMARY COMMODITIES**

The United States Delegation proposes the following changes:

"The Members recognize that the conditions under which some primary commodities are produced, exchanged and consumed may have serious adverse effects on the interests of producers and consumers, as well as widespread repercussions that would jeopardize the general policy of economic expansion. They agree that such difficulties may, at times, necessitate exceptional treatment of the international trade in such commodities and that such treatment may be provided through inter-governmental commodity arrangements concluded in conformity with the provisions of this Chapter.

**ARTICLE 47**

**OBJECTIVES OF INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS**

The United Kingdom Delegation suggests that the title of the Article should be "Objectives of Inter-governmental Action in regard to Primary Commodities".

**Preamble:**

The United States Delegation proposes:

"Inter-governmental commodity arrangements may be employed to achieve the following objectives:"

The United Kingdom Delegation proposes that the following be substituted for the present preamble:

"The Members recognize that inter-governmental action..."
in regard to primary commodities may be required:
(a) To enable countries ... purposes of this Charter."

Sub-paragraph (a):

The New Zealand Delegation proposes the insertion of the words "and consumption" between the words "production" and "adjustments".

The Australian Delegation proposes:

"(a) to prevent or alleviate the serious economic problems which may arise when production adjustments cannot be effected by the free play of normal market forces alone as rapidly as the circumstances require."

Sub-paragraph (b):

No proposals.

Sub-paragraph (c):

The United Kingdom Delegation does not support the addition to this sub-paragraph of the words now in square brackets.

The United States Delegation suggests:

"(c) to moderate pronounced fluctuations in the price of a primary commodity above and below a level which is remunerative to efficient producers and fair to consumers and which approaches 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;"

Sub-paragraph (d):

The United States Delegation suggests the possibility of a separate Section dealing with conservation agreements (see W/153 page 10).

Sub-paragraph (e):

The Czechoslovak Delegation proposes:

"To provide for an expansion of the production and equitable distribution at fair prices of a primary commodities in such short supply as serious to prejudice the interests of consumers." (See W/148 for comment).

The United States Delegation considers that this objective does not appropriately belong to Article 47 (see W/153 page 2).

Article 47A

The United Kingdom Delegation proposes (W/137, page 2) the insertion of the following new Article after the present 47:

"Procedure for Inter-governmental Action in regard to Primary Commodities:

The Members agree to follow the procedure for dealing with the special difficulties referred to in Article 46 which is prescribed in Article 48 to 56 and in the first place to study any such difficulties in accordance with the provisions of Article 48.
The Members agree that if the study of a commodity in the production, consumption or trade of which they are substantially interested shows that the difficulties are unlikely to be overcome except by inter-governmental action, they will participate in an inter-governmental conference to be called in accordance with Article 49. Inter-governmental action may take two forms, arrangements not involving either regulation of the production, export or import of a commodity or regulation of prices, in which event the provisions of Article 51 apply, and agreements involving such regulation, in which event the provisions of Article 51 and also of Articles 52 and 53 apply."

**ARTICLE 48**

**SPECIAL COMMODITY STUDIES**

**Paragraph 1:**

1. The New Zealand Delegation proposes deletion of the word "primary" from the third line.

2. The United States Delegation proposes "1. Any Member substantially interested in the production or consumption of, or trade in, a particular primary commodity shall be entitled, if it considers that international trade in the commodity is, or is likely to be, affected by special difficulties of the type referred to in Article 46, to ask that a study of the commodity be made."

**Paragraph 2:**

The United Kingdom Delegation proposes "2. Unless it resolves that a prima facie case has not been established, the Organization shall promptly invite all Members to appoint representatives to a Study Group to make a study of the commodity, if they consider that their interest in the production, consumption or trade of the commodity is sufficient to justify their participation in the Group. Non-Members may also be similarly invited."

**Paragraph 3:**

The United Kingdom Delegation proposes "3. The Study Group shall promptly investigate the special difficulties which are considered to exist or expected to arise regarding the commodity, and shall report to the Governments represented upon it whether they are so serious that they are unlikely to be overcome except by inter-governmental action. If it finds that this is the case, it shall recommend to the Governments concerned and the Organisation what form that inter-governmental action should take."
ARTICLE 49

COMMODITY CONFERENCES

Paragraph 1:

1. The New Zealand Delegation proposes the deletion of the word "primary" from sixth line.

2. The United Kingdom Delegation proposes the following paragraph:

"1. If the Organisation receives recommendations for inter-governmental action from a Study Group, or if it receives other information agreed to be adequate by the Members substantially interested in the production, consumption and trade of a particular primary commodity of the existence of special difficulties which are so serious that they are unlikely to be overcome except by inter-governmental action, the Organisation shall promptly convene an inter-governmental conference for the purpose of discussing measures designed to meet the special difficulties which have been found to exist."

3. The United States Delegation proposes to replace in the third line the word "problems" by "problem".

Paragraph 2:

The United Kingdom Delegation proposes to substitute the following for the present paragraph 2:

"2. Every Member shall be entitled to attend such a conference, if it considers that its interest in the production, consumption or trade of the commodity concerned is sufficient to justify its attendance. Non-Members may be similarly invited."

ARTICLE 50

RELATIONS WITH INTER-GOVERNMENTAL ORGANIZATIONS

General Note on Article: The United Kingdom Delegation raises for consideration the transfer of this Article to the Section on Miscellaneous Provisions (i.e. Section D. in its suggested re-arrangement of the Chapter).

Paragraph 1:

1. The Indian Delegation proposes deletion of the words: "such as the Food and Agriculture Organization".

The New Zealand Delegation proposes the following amendment and re-arrangement of sub-paragraphs (a) and (b):

\[\text{(b)}\]"(a) to ask that a study of a primary commodity be made;"

\[\text{(a)}\]"(b) to submit to the Organization any relevant study of a primary commodity. Such a submission shall be deemed to conform to the requirements of Article 48 and may be accepted by the Organization as a basis for the convening of an Inter-governmental Conference in terms of Article 49."

3. The Australian Delegation proposes the following amendment of sub-paragraph (a):

"(a) to submit to the Organization any relevant study of a primary commodity, and on the basis thereof, to request the Organization to convene an inter-governmental Commodity Conference."
4. The Netherlands Delegation proposes the addition of a new sub-paragraph reading as follows:

"(c) to ask that an inter-governmental conference be convened".

The United Kingdom Delegation proposes (See W/137 pages 4 and 5) a complete re-drafting of the Article, in which paragraph (1) would read as follows:

"1. The Organization may request any competent inter-governmental organization, such as the Food and Agriculture Organization, to submit to it any relevant study of a primary commodity."

Paragraph 2.

1. The Australian Delegation proposes the substitution of the word "shall" for the word "may" in the first line of this paragraph.

2. The Czechoslovak Delegation proposes the following amendment:

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

3. The United Kingdom Delegation proposes to substitute for this paragraph the two following paragraphs:

"2. The Organization, when it is convening a Commodity Conference under the provisions of Article 49 may request any inter-governmental organization which it deems to be competent to be represented at the Conference, or to place expert staff and other assistance at its disposal, on such terms and conditions as may be agreed."

"3. Any Study Group which is set up under the provisions of Article 48 may request any inter-governmental organization which it deems to be competent to be represented at the Study Group and to place expert staff and other assistance at its disposal on such terms and conditions as may be agreed."

ARTICLE 51

GENERAL PRINCIPLES OF INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS.

Note: Attention is drawn to the transfer of paragraph 4 of Article 51 of the Text of the First Session to Article 53 in the D.C. Report. Reservations on this change are noted under Article 53.

Preamble:

No proposals.

Sub-paragraph (a):

The United Kingdom Delegation proposes:

"(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 in accordance with such procedure and upon such terms as may be approved by the Organization and the existing participants."

Sub-paragraph (b):
No proposals.

Sub-paragraph (c):
The United States Delegation proposes deletion of the words: "affording advantages commensurate with obligations accepted by non-participating Members."

Sub-paragraph (d):
No proposals.

Sub-paragraph (e):
No proposals.

Sub-paragraph (f):
No proposals.

Sub-paragraph (g):
No proposals.

ARTICLE 52
CIRCUMSTANCES GOVERNING THE USE OF REGULATORY AGREEMENTS

The United States Delegation proposes the addition of a new paragraph to this Article (see below); in consequence it proposes the insertion of the number 1 before the preamble.

Sub-paragraph (a):
1. The Chilean Delegation suggested (D.C. Report, page 40) the following text for sub-paragraph (a):

"A burdensome surplus of a primary commodity has developed or is expected to develop which, because a substantial reduction in price does not readily lead to a significant increase in consumption nor to a significant decrease in the production of that commodity, would not, in the absence of specific governmental action, be corrected by normal marketing forces alone in time to prevent serious hardship to producers 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"

2. Attention is drawn to the Drafting Committee's note on the phrase, "because characteristically, in the case of the primary commodity concerned, a substantial reduction in price does not lead to a significant ...." (D.C. Report, page 40), i.e. that it is only to be considered as a descriptive phrase "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."

3. The United States Delegation proposes:

"(a) a burdensome surplus of a primary commodity has developed or is expected to develop, which in the absence of specific governmental action, would cause serious hardship to producers, among whom are small producers who account for a substantial portion of the total output, and these conditions could not / cannot / be corrected by normal market
forces in time to prevent such hardship because characteristically, in the case of the primary commodity concerned, a substantial reduction in price does not readily lead to a significant increase in consumption nor to a significant decrease in production; or"

Sub-paragraph (b):
1. The Drafting Committee's note on the phrase, "because characteristically..." (see note on sub-paragraph (a) above) also refers to this sub-paragraph.

The United States Delegation proposes the following amendment:

"(b) widespread unemployment or under-employment in connection with a primary commodity, arising out of difficulties of the kind referred to in Article 46, has developed or is expected to develop, which, in the absence of specific governmental action, would not be corrected by normal market forces in time to prevent widespread and undue hardship to workers, because characteristically, in the case of the industry concerned, a substantial reduction in price does not readily lead to a significant increase in consumption but to the reduction of employment and because areas in which the commodity is produced in substantial quantity do not afford alternative employment opportunities for the workers involved; or"

Sub-paragraph (c):
1. The Czechoslovak Delegation proposes the substitution of the word "recommend" for the word "establish" in the last line of this sub-paragraph.
2. The United States Delegation proposes deletion of this sub-paragraph.
3. The Secretariat points out that this sub-paragraph does not run smoothly from the preamble.

Proposed additional sub-paragraphs:
1. At the Drafting Committee (see D.C. Report, page 41) the representative of the F.A.O. suggested the addition of the following sub-paragraph after sub-paragraph (b):

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

The Drafting Committee recognised that the matter was one for consideration at the present session of the Preparatory Committee.
2. The Czechoslovak Delegation proposes the following new sub-paragraph:

"(d) A shortage of a primary commodity, whether of a short term or a long term character, which seriously prejudices the interests of consumers and cannot be remedied by normal market forces alone, has developed and it is, therefore, necessary to raise production and secure an equitable distribution and stable prices of that commodity."
Proposed new paragraph:

The United States Delegation proposes the addition of the following new paragraph:

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

ARTICLE 53
ADDITIONAL PRINCIPLES GOVERNING REGULATORY AGREEMENTS.

Preamble:

The United States Delegation proposes the substitution of the word "shall" for the words "undertake to" in the first line.

Sub-paragraph (a).

The United States Delegation proposes the deletion of this sub-paragraph.

Sub-paragraph (b)

1. The words shown in square brackets will require further consideration. The request mentioned in the D.C. Report (page 41) that a "reasonable price" should not be a price which does not cover the costs of production was made by the Delegate of Chile.

2. The Czechoslovak and Netherlands Delegations both propose the addition of the words "without unfairness to consumers" immediately after the words in square brackets.

3. The United States Delegation proposes that the sub-paragraph should end at the word "demand".

4. The United Kingdom Delegation proposes that the sub-paragraph should be re-worded as follows:

"(b) such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at equitable and stable prices."

Sub-paragraph (c):

1. The United Kingdom Delegation reserved its position (D.C. Report, page 41) regarding the transfer of this sub-paragraph from Article 51.

2. The Australian and New Zealand Delegations thought that the whole text of the sub-paragraph should be within square brackets because the transfer constituted a substantive change (D.C. Report, page 41).

3. The United Kingdom Delegation suggested that the words "according to its interests in the circumstances" and "within one or other category without altering the equality between the two" should be put between square brackets (D.C. Report, page 41).
4. The Chilean Delegation proposed (D.C. Report, pages 41 and 42) that sub-paragraph (c) should read:

"In such arrangements participating countries, which are largely dependent for consumption on imports of the commodity involved shall, in determinations made relating to substantive matters, have together a voice equal to that of those largely interested in obtaining export markets for the commodity, provided that those countries, which are largely interested in the commodity, but which do not fall precisely under either of the above classes, shall have an appropriate voice. Provided also that said consuming or importing countries will not oppose the adoption of necessary measures to a reasonable price increase for said product, when the price has had an appreciable decrease as compared with a prior representative period, or when current prices do not cover total production costs and would substantially affect the economy of one or more Member-countries which represent a considerable portion of the total output of said products."

5. The French Delegation proposes to substitute the following text for this sub-paragraph:

"(c) Under such agreements, participating countries which are substantially interested in the production or consumption of, or trade in, the commodities involved shall, in determinations relating to substantive matters, have together a number of votes equitably proportional to their combined interests. Distribution of these votes shall be made in accordance with the procedure established by each Commodity Conference. If a Conference is unable to reach agreement on this matter, the Commodity Commission provided for in Article 72 of this Charter shall arbitrate."

6. The United States Delegation proposes:

"(c) under such agreements participating countries which are largely interested in consumption or imports of the commodity involved shall, in determinations made relating to substantive matters, have together a voice equal to that of those countries largely interested in obtaining exports of 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;"
Sub-paragraph (d):

1. The Netherlands Delegation proposes that this sub-paragraph should read as follows:

"(d) Such agreements shall encourage consistently with considerations relevant to the national economy of each country, shifts of production to areas in which the commodities can be most economically and effectively produced."

2. The French Delegation proposes that this sub-paragraph should read as follows:

"(d) Such agreements shall, with due regard to the need for preventing serious economic and social dislocation, and to the position of producing areas which may be suffering grave 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, the essential interests of efficient producers and the need to ensure full employment being taken into account."

Sub-paragraph (e):

The Delegation of the United States proposes:

"(e) participating countries shall formulate and adopt a programme of domestic economic adjustment believed to be adequate to ensure substantial progress toward solution of the commodity problem within the time limits of the agreement."
ARTICLE 54

ADMINISTRATION OF REGULATORY AGREEMENTS

Paragraph 1:
No proposals.

Paragraph 2:
The United States Delegation proposes the insertion of the word "Power" after the word "voting" in line 5 of this paragraph.

Paragraph 3:
The United Kingdom Delegation suggests a re-wording as follows:

"The Organisation may appoint a non-voting representative to each Commodity Council. Each Commodity Council may invite any competent inter-governmental organisation to nominate a non-voting representative to participate in its work on such terms and conditions as may be agreed."

Paragraph 4:
No proposals.

Paragraph 5:
No proposals.

Paragraph 6:
No proposals.

Paragraph 7:
The Australian Delegation proposes:

"7. Each Commodity Council shall make periodic reports to the Organisation on the operation of the agreement which it administers. In addition, it shall make such special reports as the Organisation may specify or as the Council itself considers to be of value to the Organisation. Such reports shall also be made available immediately to any other inter-governmental organisation having a particular responsibility for, or interest in, the commodity concerned."

Paragraph 8:
No proposals.

ARTICLE 55

PROVISION FOR INITIAL TERMS, REVIEW AND RENEWAL OF REGULATORY AGREEMENTS

The Australian Delegation proposes:

"No Regulatory agreements shall remain in force for more than five years, unless renewed, 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 may also include provision for the withdrawal of any party. Periodically, at intervals ................. of the Commodity Council.

The Australian Delegation also draws attention to some obscurity in the penultimate sentence, "moreover .......... terminate it".

ARTICLE 56

SETTLEMENT OF DISPUTES.

The United Kingdom Delegation proposes:

"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. If the question or difference cannot be resolved by the Council under the terms of the agreement it shall be referred by the Council 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".

ARTICLE 57

OBLIGATIONS OF MEMBERS REGARDING EXISTING AND PROPOSED COMMODITY ARRANGEMENTS

No proposals.

ARTICLE 58

GENERAL UNDERTAKING BY MEMBERS.

The United States Delegation suggests deletion of this article.

ARTICLE 59

EXCEPTIONS TO PROVISIONS RELATING TO INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS

Sub-paragraph (a):

1. Consequential on its suggested amendment to Article 52, the Czechoslovak Delegation proposes:

"(a) 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".

(see W/148 page 3).

2. The Drafting Committee was of the opinion that arrangements relating solely to the equitable distribution of commodities in short supply and mentioned in this sub-paragraph should be short term arrangements of a transitional character (D.C. Report, page 43).
Sub-paragraph (b):

The United States Delegation proposes:

"(b) to international fisheries or wildlife conservation agreements with the sole objective 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; provided, that such agreements are not used to accomplish results inconsistent with the objectives of Chapter VI or Chapter VII; and

Sub-paragraph (c):

The United States Delegation proposes the deletion of this sub-paragraph.

Proposed new sub-paragraph:

The Indian Delegation proposes the addition of a new sub-paragraph (d):

"(d) to inter-governmental commodity arrangements relating to basic foods or feeds concluded under the sponsorship of the Food and Agriculture Organisation."

ARTICLE 60.

DEFINITIONS.

Paragraph 1:

1. The Norwegian Delegation reserves its position regarding the inclusion of fishery products in the definition of "primary commodity". (D.C. Report, p.44).

2. The United States Delegation proposes:

"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 that it is necessary to deal with them in a single arrangement.

2. The French Delegation proposes the following paragraph:

"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 which are so closely related to the other commodities in the group that they can conveniently be considered in a single arrangement, regard being had to the conditions of production of each".

Paragraph 2:

No proposals.

Paragraph 3:

No proposals.