

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

The Delegation of the United States of America submit the following proposals for amendment of Chapters I and II, together with suggestions with regard to arrangement of the Articles of the Charter as a whole, and with regard to the constitution of a new Chapter to be called "Miscellaneous", which would contain material applicable to the Charter as a whole but which is not strictly concerned with organizational matters:

Chapter I Purposes

It is suggested that Article 1 be amended to read as follows:

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 undertake to promote national and international action for the fulfilment of the following purposes:

1. To raise standards of living, assure a large and steadily growing volume of real income and effective demand, and contribute to a balanced and expanding world economy, through measures designed to provide full employment and increase the production, exchange and consumption of goods.

2. To develop the economic resources of the world by encouraging the international flow of capital for

productive investment and otherwise assisting the industrial and general economic development of all countries, particularly of those still in the early stages of industrial development.

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

4. To reduce tariffs and other barriers to trade, to eliminate all forms of discriminatory treatment in international commerce, and to enable all countries, by thus increasing the opportunities for their trade on a mutually advantageous basis, to avoid recourse to measures which disrupt world commerce, reduce productive employment or retard economic development.

5. To facilitate the solution of problems relating to international trade, including problems of employment, economic development, international investment, commercial policy, business practices, and commodity policy, through consultation and collaboration among Members.

In order to effectuate these purposes, the States pledge themselves to accept the obligations that are set forth in this Charter and they hereby establish an International Trade Organization through which Members will cooperate to this end.

Chapter II Membership

Article 2 (Membership)

It is suggested that the word "countries" in paragraphs 1 and 2 be changed to read "states", in conformity with the provisions of the U.N. Charter with the constitutions of most

of the other specialized agencies and with Article 1 of this Charter.

Paragraph 2 (New Members).

It is suggested that there be added to paragraph 2 of this Article the additional clause:

and any amendment thereto which shall have become effective as of the time of such acceptance.

COMMENT : Although Article 85 contemplates the possibility that Members may fail to accept all amendments and still remain within the Organization, it does not seem desirable to permit new Members to pick and choose the amendments which they will accept.

Proposed Rearrangement of Material in Charter

Since proposals with respect to Chapters I and II are, under the present schedule, the last proposals on matters of substance due to be submitted to the Preparatory Committee, the United States Delegation feels that it is now appropriate to suggest, in connection with the submission of these proposals, a new arrangement for the material contained in the Charter as a whole.

The attached outline is based, in most cases, upon changes already agreed in various Commissions and Sub-Commissions, and the titles of the Articles are taken from the latest documents available with respect to the Articles involved. The document involved is indicated in each case. Whenever changes are based upon proposals of any delegation which have not yet been generally agreed this is indicated.

In addition to the changes already agreed as stated above, the major changes are as follows:

1. Article 2 of the New York Draft is moved up into the

Chapter on Organization and Functions. It is felt that membership is a fundamentally organizational question, and that any person attempting to look up membership in the Charter would normally look under the heading of Organization. This eliminates old Chapter II and causes consequential renumbering throughout. Article 1 is reworded to cover the necessary formal provision.

2. A new final Chapter is suggested containing material applicable to the Charter as a whole which is not strictly concerned with Organization or Functions. The source of the material for this Chapter is indicated.

3. Two new Articles are suggested for the new final Chapter. These are attached as Annexes A and B. They deal with the generalized security exceptions and with an over-all review of the Charter within ten years, in a manner similar to that provided in Article 109 of the United Nations Charter. The substance of both these new Articles is largely covered by material already in the Charter.

4. As indicated in connection with proposed Article 93 on Non-Members, the United States plans to submit a proposal for a special protocol, to be attached to the Charter, and also to the General Agreement on Tariffs and Trade concerning relations with Germany, Japan and Korea.

5. Articles 14, 15 and 24 of the New York Draft are assembled as being related matters.

6. Article 33 of the New York Draft is removed.

7. Sections F, H and I of the New York Draft are assembled as miscellaneous provisions affecting Chapter IV, (present Chapter V).

OUTLINE

U.S. Proposal

New York Draft

CHAPTER I. PURPOSES

SAME

Article 1. General Purposes

Same

CHAPTER II. EMPLOYMENT AND
ECONOMIC ACTIVITY 1/

CHAPTER III. EMPLOYMENT, EFFECTIVE
DEMAND AND ECONOMIC
ACTIVITY

Article 2. Importance of Employment, Production and Demand in Relation to the Purposes of this Charter

Article 3. Importance of Employment in Relation to the Purposes of this Charter

Article 3. Maintenance of Domestic Employment

Article 4. Same

Article 4. Fair Labor Standards

Article 5. Same

Article 5. Removal of Maladjustments within the Balance of Payments

Article 6. The removal of Maladjustments in the Balance of Payments

Article 6. Exchange of Information and Consultation

Article 8. Consultation and Exchange of Information on Matters Relating to Employment

Article 7. Safeguards for Members Subject to External Deflationary Pressure

Article 7. Same

CHAPTER III. ECONOMIC DEVELOPMENT
AND INTERNATIONAL
INVESTMENT 2/

CHAPTER IV. ECONOMIC DEVELOPMENT

Article 8. Importance of Economic Development and International Investment in Relation to the Purposes of this Charter

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

Article 9. Development of Domestic Resources and Productivity

Article 10. Same

Article 10. Plans for Economic Development

Article 11. Same

Article 11. Means of Economic Development and their Promotion

Article 12. Means of Economic Development

1/ Titles of Articles for this Chapter taken from draft in E/PC/T/95.

2/ Titles of Articles for this Chapter taken from U.S. proposal, E/PC/T/W/123.

U.S. Proposal

New York Draft

Article 12. Governmental Assistance to Economic Development

Article 13. Same

CHAPTER IV. COMMERCIAL POLICY

CHAPTER V. GENERAL COMMERCIAL POLICY

Section A. Tariffs, Preferences, and Internal Taxation and Regulation

Section A. General Commercial Provisions, Most-Favored-Nation Treatment (part) and

Section B. Tariffs and Tariff Preferences

Article 13. General Most-Favored-Nation Treatment

Article 14. Same

Article 14. Reduction of Tariffs and Elimination of Preferences

Article 24. Same

Article 15. National Treatment on Internal Taxation and Regulation

Article 15. Same

Section B. Quantitative Restrictions and Exchange Controls

Section C. Same

Article 16. General Elimination of Quantitative Restrictions

Article 25. Same

Article 17. Restrictions to Safeguard the Balance of Payments

Article 26. Same

Article 18. Non-Discriminatory Administration of Quantitative Restrictions

Article 27. Same

Article 19. Exceptions to the Rule of Non-Discrimination

Article 28. Same

Article 20. Exchange Arrangements

Article 29. Same

Section C. Subsidies 1/

Section D. Same

Article 21. Subsidies in General

Article 30. General undertaking Regarding Subsidies--Elimination of export subsidies--Exceptions (para. 1)

1/ Titles Taken from M.142/47, 30 June 1947.

U.S. Proposal

New York Draft

Article 22. Additional Provisions
on Export Subsidies

Article 30. (paras. 2 and 5)

Article 23. Special Treatment of
Primary Commodities

Article 30. (paras. 3 and 4)

Article 24. Procedure

Article 30. (para. 6)

Section D. State Trading 1/

Section E. Same

Article 25. Most-Favored-Nation
Treatment by State
Trading Enterprises

Article 31. Non-Discriminatory
Administration of
State Trading
Enterprises

Article 26. Expansion of Inter-
national Trade by
Members Having
State Monopolies

Article 32. Expansion of Trade
by State Monopolies
of Individual Pro-
ducts

Suppressed

Article 33. Expansion of Trade
by Complete State
Monopolies of
Import Trade

Section E. General Commercial
Provisions

Section A. General Commercial Pro-
visions, Most-Favored-
Nation Treatment
(part)

Article 27. Conditions with Res-
pect to Shipments 2/

New

Article 28. Freedom of Transit

Article 16. Same

Article 29. Anti-Dumping and
Countervailing
Duties

Article 17. Same

Article 30. Tariff Valuation

Article 18. Same

Article 31. Customs Formalities

Article 19. Same

Article 32. Marks of Origin

Article 20. Same

Article 33. Publication and Ad-
ministration of
Trade Regulations,
Advance Notice of
Restrictive Regula-
tions

Article 21. Same

Article 34. Information Statis-
tics and Trade
Terminology

Article 22. Same

Article 35. Boycotts

Article 23. Same

1/ Titles taken from E/PC/T/W/195.

2/ See E/PC/T/W/150, page 10, when this Article is suggested as
Article 15 A by the U.S. Delegation.

U.S. Proposal

New York Draft

Section F. Special Provisions

Article 36. Emergency Action
on Imports of
Particular Products

Article 37. Consultation Re-
garding Operation
of Chapter IV

Article 38. Territorial Applica-
tion of Chapter IV-
Frontier Traffic-
Customs Unions

Article 39. General Exceptions
to Chapter IV

CHAPTER V. RESTRICTIVE BUSINESS
PRACTICES 1/

Article 40. Policy Towards
Restrictive Busi-
ness Practices

Article 41. Procedure with Res-
pect to Investiga-
tions and Consulta-
tions

Article 42. Studies Relating to
Restrictive Business
Practices

Article 43. Obligations of Members

Article 44. Supplementary Enforce-
ment Arrangements

Article 45. Continued Effective-
ness of Domestic
Measures Against
Restrictive Business
Practices

Article 46. Procedure with Res-
pect to Services

Article 47. Exceptions to Provi-
sions of this Chapter

Section F. Emergency Provisions--
Consultation

Article 34. Same

Article 35. Consultation--
Nullification or
Impairment
(para.1)

Section I. Territorial Applica-
tion

Article 38. Territorial Applica-
tion of Chapter
V-Frontier-
Traffic-Customs
Union

Section H. General Exceptions

Article 37. General Exceptions
to Chapter V

CHAPTER VI. Same

Article 39. Same.

Article 40. Procedure with
Respect to Com-
plaints and
Conferences

Article 41. Same

Article 42. Obligation of
Members

Article 43. Same

Article 44. Same

New

Article 45. Same

1/ Titles taken from E/PC/T/112.

U.S. Proposal

New York Draft

CHAPTER VI. INTERGOVERNMENTAL
COMMODITY ARRANGEMENTS 1/

CHAPTER VII. Same

Section A. General Considerations

Section A. Intergovernmental Com-
modity Arrangements
in General

Article 48. Difficulties Relating to
Primary Commodities

Article 46. Same

Article 49. Primary and Related
Commodities

Article 60. Paragraph 1
Definitions

Article 50. Objectives of Intergov-
ernmental Commodity
Agreements

Article 47. Objectives of Inter-
governmental Com-
modity Arrangements

Section B. Intergovernmental Commodity
Agreements in General

(Continuation of Section A)

Article 51. Special Commodity Studies

Article 48. Same

Article 52. Commodity Conferences

Article 49. Same

Article 53. General Principles of
Intergovernmental Com-
modity Agreements

Article 51. General Principles
of Intergovern-
mental Commodity

Article 58. Arrangements and
general undertaking
by Members

Article 54. Types of Agreements

Article 60. Definitions (para.3)
and New Material

Section C. Intergovernmental Commodity
Control Agreements

Section B. Intergovernmental
Commodity Arrange-
ments Involving the
Regulation of Fro-
duction, Trade or
Prices

Article 55. Circumstances Governing
the Use of Commodity
Control Agreements

Article 52. Circumstances
Governing the Use
of Regulatory
Agreements

Article 56. Additional Principles
Governing Commodity
Control Agreements

Article 53. Additional
Principles
Governing Regula-
tory Agreements

Article 57. Administration of
Commodity Control
Agreements

Article 54. Administration of
Regulatory Agree-
ments

Article 58. Provision for Initial
Terms, Review and Re-
newal of Commodity
Control Agreements

Article 55. Provision for
Initial Terms, Re-
view and Renewal
of Regulatory
Agreements

Article 59. Settlement of Disputes

Article 56. Same

1/ Titles taken from E/PC/T/W/228 of June 27, as tentatively
amended by E/PC/T/115 of July 3.

U.S. Proposal

New York Draft

Section D. Miscellaneous Provisions

Section C. Same.

Article 60 Relations with Inter-
governmental Organ-
izations

Article 50. Same

Article 61. Obligations of Members
Regarding Existing and
Proposed Commodity
Agreements

Article 57. Obligations of Mem-
bers Regarding
Existing and Pro-
posed Commodity
Arrangements

Article 62. Territorial Application

Article 60. Paragraph 2
Definitions

Article 63. Exceptions to Provisions
Relating to Intergovern-
mental Commodity
Agreements

Article 59. Exceptions to
Provisions Re-
lating to Inter-
governmental Com-
modity Arrange-
ments

CHAPTER VII. ORGANIZATION AND FUNCTIONS

CHAPTER VIII. ORGANIZATION

Section A. Membership

Chapter II

Article 64. Membership

Article 2. Same

Section B. Functions and Structure

Section A. Functions and
Structure of
the Organization

Article 65. Functions

Article 61. Same

Article 66. Structure

Article 62. Same

Section C. The Conference

Section B. Same

Article 67. Membership

Article 63. Same

Article 68. Voting

Article 64. Same

Article 69. Session, procedure and
officers.

Article 65. Same

Article 70. Powers and duties

Article 66. Same

Section D. The Executive Board

Section D. Executive Board

Article 71. Membership

Article 68. Same

Article 72. Voting

Article 69. Same

Article 73. Sessions, procedure and
officers.

Article 70. Same

Article 74. Powers and duties

Article 71. Same

U. S. Proposal

New York Draft.

Section E. The Commission

Section E. Commissions

- Article 75. Establishment
- Article 76. Composition and
procedure.
- Article 77. General functions
- Article 78. Functions of the
Commission on Economic
Development and Inter-
national Investment
- Article 79. Functions of the
Commission on Commercial
Policy
- Article 80. Functions of the
Commission Business
Practices
- Article 81. Functions of the
Commodity Commission

Article 72. Same

Article 73. Same

Article 74. Same

New (see E/PC/T/W/123,
p.8)

Article 75. Same

Article 77. Same

Article 77. Same

Section F. The Tariff Committee

Section C. Tariff Committee

- Article 82. Tariff Committee

Article 67. Same

Section G. The Secretariat

Section E. Same

- Article 83. Composition
- Article 84. Director General

Article 78. Same

Article 79. The Director
General

- Article 85. Employment of Staff

Article 80. Same

Section H. Other Organizational
Provisions

Section G. Miscellaneous
Provisions

- Article 86. Relations with other
Organizations
- Article 87. International responsi-
bilities of personnel
of Organization
- Article 88. International Legal
Status of Organization
- Article 89. Status of the Organiza-
tion in the territory
of Members
- Article 90. Contributions

Article 81. Same

Article 82. Same

Article 83. Same

Article 84. Same

Article 87. Same

U. S. Proposal

New York Draft

CHAPTER VIII. MISCELLANEOUS

NEW

Article 91. Nullification or
Impairment 1/or

Article 35, para.2,
Consultation-
Nullification
or impairment

Article 92. Disputes 1/

Article 86. Interpretation
and settlement
of disputes

Article 93. Relations with Non-
Members 2/

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

Article 94. General Exceptions 3/

Article 37, sub-para.c,d,e,
and k. General
Exceptions to
Chapter V,
Article 59, sub-para.c.
Article 42, para.2, sub-
para c(i)

Article 95. Amendments

Article 85. Amendments to
the Charter

Article 96. Review of Charter 4/

New 4/

Article 94. General Exceptions 5/

Article 37, sub-para.c, d,
e,k, General
Exceptions to
Chapter V

Article 95. Amendments

Article 85. Amendments to
the Charter

Article 96. Review of Charter 6/

New 6/

Article 97. Withdrawal and Termination

Article 89, same plus new
para. suggested
by U.S. in
E/PC/T/W/210 -
Rev.1, p.32

Article 98. Registration and Entry
into Force

Article 88, Entry into Force,
plus Secretariat
suggestion on
Registration, plus
material on language
in Article 86, para. 1
(as suggested by UK in
E/PC/T/W/210 -
Rev.1, page 28)

1/ It may be decided to merge these two articles.

2/ U.S. Delegation plans to submit a protocol concerning relations
with Germany, Japan and Korea, to be annexed to the Charter.

3/ See Annex A for draft.

4/ See draft article in Annex B.

5/ See Annex A for draft.

6/ See draft article in Annex B.

ANNEX A

Suggested new Article covering national security exceptions taken from Articles 37 and 59 of New York Draft plus Article 42, 3,(a) of the new draft on Business Practices (E/PC/T/112, page 5)

ARTICLE 94.

General Exceptions.

Nothing in this Charter shall be construed to require any Member to furnish any information the disclosure of which it considers contrary to its essential security interests, or to prevent any Member from taking any action which it may consider to be necessary to such interests:

- a) Relating to fissionable materials or their source materials;
- b) 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;
- c) In time of war or other emergency in international relations, relating to the protection of its essential security interests;
- d) Undertaken in pursuance of obligations under the United Nations Charter for the maintenance of international peace and security.

ANNEX B

Suggested draft of New Article 96 to go into new Miscellaneous Chapter of Charter and providing for a full review of all the provisions of the Charter in the light of operating experience.

ARTICLE 96

Review of Charter

The Conference shall convene a Special Session for the purpose of reviewing the provisions of this Charter before the end of the tenth year after this Charter shall have entered into force.