INTERNATIONAL TRADE ORGANIZATION

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

EIGHTIETH CONGRESS

FIRST SESSION

ON

TRADE AGREEMENTS SYSTEM AND PROPOSED INTERNATIONAL TRADE ORGANIZATION CHARTER

PART 2

EXHIBITS

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PROPOSED INTERNATIONAL TRADE ORGANIZATION CHARTER TABLE OF EXHIBITS

A. Preludes of the Hearings

Page

Exhibit I. Proposals for Expansion of World Trade and Employment 677
Published in November, 1945 by the Department of State. Advances the idea of an international trade organization.

Exhibit II. United Nations Economic and Social Council Resolution of February, 1946 694
Establishes a Preparatory Committee comprising representatives of nineteen countries to prepare a draft charter for an international trade organization for submission to an International Conference on Trade and Employment.

Exhibit III. Suggested Charter for an International Trade Organization 695
An elaboration of the United States proposals for an international trade organization in the form of a suggested charter to serve as a basis for discussion at the first meeting of the Preparatory Committee.

Exhibit IV. Results of the First Meeting of the Preparatory Committee for the International Conference on Trade and Employment in London, England, October-November 1946:
A. Report of the Preparatory Committee 748
B. Preliminary Draft of Charter for an International Trade Organization 795
Articles of proposed charter drafted at the London Meeting of the Preparatory Committee in form providing comparison with the suggested Charter submitted by the United States.
C. Preparations for Multilateral Trade Agreement Negotiations to be Conducted at Geneva in April, 1947 Simultaneously with Meeting of the Preparatory Committee 876
(*See also* Exhibit XXI.)
D. Official Report of the United States Delegation to the London Meeting of the Preparatory Committee 884

Exhibit V. Panel Hearings in Seven Cities of the United States on the London Draft of the Proposed International Trade Organization Charter 917

Exhibit VI. Business Association Expressions (London Draft) Alluded to in State Department testimony, page —:
A. Chamber of Commerce of the United States 959
B. National Association of Manufacturers 982
C. National Foreign Trade Council 997
D. United States Associates of the International Chamber of Commerce 1072

Exhibit VII. Comparison of the London and New York Drafts of Proposed International Trade Organization Charter 1080

Exhibit VIII. Articles of Related International Agreements:
A. Charter of the United Nations 1155
B. International Bank for Reconstruction and Development 1186
C. International Monetary Fund 1205

D. Special Matter Provided for the Record

		Page
Exhibit IX.	Expressions of United States Foreign Economic Policy in Specific Financial and Commercial Agreements:	
	A. United Kingdom, December 1945	1230
	B. Belgium, October 1945	1235
	C. Greece, January 1946	1237
	D. Poland, April 1946	1237
	E. France, May 1946	1239
	F. Turkey, May 1946	1246
	G. Czechoslovakia, November 1946	1248
	H. Netherlands, December 1946	1249
Exhibit X.	Department of State Memorandum on Bilateral Agreements Affecting World Trade:	
	A. General Statement on Bilateral Agreements	1250
	B. European Bilateralism	1252
	C. United Kingdom Bilateral Agreements	1259
	D. Bilateral Agreements Negotiated by Latin American Republics Since the End of Hostilities	1265
	E. Bilateral Agreements in the Near and Middle East and Far Eastern Bilateral Agreements	1273
	F. Sample Agreements	1275
	1. Agreement on Product, Exchange, and Payments Between Norway and the Soviet Union	1275
	2. Trade Agreement Between Norway and the Netherlands	1278
	3. Agreements Between Sweden and USSR	1281
	4. Agreement Between Canada and the United Kingdom for the Purchase of Canadian Wheat	1286
	5. Economic Agreement Between His Majesty's Government in the United Kingdom and the Argentine Government	1288
	6. Financial Agreement Between his Majesty's Government in the United Kingdom and the Government of the French Republic	1294
	7. Financial Agreement Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Provisional Government of the French Republic	1298
	8. Agreement Between His Majesty's Government in the United Kingdom and the Iraqi Government Concerning Iraqi Foreign Exchange Requirements for 1945	1303
	9. Correspondence Between His Majest's Government in the United Kingdom and the Egyptian Government Concerning Egyptian Foreign Exchange Requirements for 1945	1306
Exhibit XI.	State Department Memorandum on Conditional and Unconditional Most-Favored-Nation Treatment	1314
Exhibit XII.	Lists of Export Associations:	
	A. List of Export Associations Filing Papers With Federal Trade Commission Under Export Trade Act (Webb-Pomerene Law) as of March 31, 1947	1317
	B. List of Export Groups Recognized by the English Board of Trade	1318
Exhibit XIII.	Experience Under Intergovernmental Commodity Agreements 1902-45	1327
	Article by Joseph S. Davis Reprinted From Journal of Political Economy.	
Exhibit XIV.	State Department Memorandum on Relationship of Provisions of the Proposed International Trade Organization Charter and the United States Declaration of Acceptance of Compulsory Jurisdiction of the International Court of Justice	1347

Page

Exhibit XV. Organizational Structure of the Proposed International Trade Organization (chart) 1350
Exhibit XVI. United States Formula for Weighted Voting 1351
Exhibit XVII. Schedule for Par Values Announced December 18, 1946, by International Monetary Fund 1353
Exhibit XVIII. Statements Bearing on Methods of Reference of the Charter for an International Trade Organization to the Congress:
A. Letter dated April 4, 1947, undersigned by Acting Secretary of State Dean Acheson 1355
B. Letter dated April 15, 1947, undersigned by Acting Secretary of State Dean Acheson 1356
C. Memorandum by Mr. Fahy as to extent to which historically the United States has included provisions relating to trade with other countries in Executive agreements and informal treaties 1356
D. Memorandum from the legal adviser of the Department of State in relation to the use of the term "Multilateral Convention" in article 59 of the Charter providing exceptions to provisions respecting international commodity arrangements 1369
Exhibit XIX. United States Legislation on Which Provisions of Proposed International Trade Organization Bear:
A. Quantitative Restrictions on Foreign Trade Imposed by the United States: Report by Legislative Reference Service 1371
B. Direct Subsidies of the United States Department of Agriculture and of the Reconstruction Finance Corporation: Report by Legislative Reference Service 1375
C. The Cotton Marketing Program of the United States and the Proposed Charter for the International Trade Organization: Memorandum by general counsel of United States Tariff Commission 1376
D. The "Buy American" Act: Report by Legislative Reference Service 1378

C. References of the Testimony in Relation to Trade Agreement Negotiations

Exhibit XX. State Department Memorandum Respecting Proposed Multilateral Trade Agreement To Be Negotiated at Geneva, Switzerland 1380
Exhibit XXI. Draft of Proposed General Agreement on Tariffs and Trade To Be Negotiated at Geneva 1385
(*See also* Exhibit IV C.)
Exhibit XXII. United States Preparations for Geneva Trade Agreement Negotiations:
A. State Department Announcement of Trade Agreement Negotiations November 9, 1946 1402
B. Public Notice—Committee for Reciprocity Information 1404
C. Products Subject to Tariff Concessions 1405
D. Typical Commodity Digest 1417

D. Statistics

Table 1. United States foreign trade: 5-year averages, 1851–1945, annual, 1937–45 1420
Table 2. United States foreign trade and national income, 1913 and 1919–45 1420
Table 3. United States foreign trade by economic classes: average, 1851–60 and 5-year averages, 1861–1940 1421
Table 4. United States foreign trade by areas: 5-year averages, 1921–35 and 3-year average, 1936–38 (value) 1421
Table 5. As in table 4 in percentages of total trade 1422
Table 6. United States balance of international payments: 5-year averages, 1921–40, annual 1936–40 1422

Page

Table 7. Number of tariff paragraphs and statistical items on the dutiable list under consideration in negotiation with the 18 countries meeting at Geneva, showing value of the imports of these items in 1939 and their relation to total dutiable imports---- 1423

Table 8. Number of tariff paragraphs and statistical items on the free list under consideration in negotiation showing value of the imports of these items in 1939 and their relation to total imports on the free list---------- 1424

Table 9. Number of rates reduced and number of rates bound by trade agreements in effect on January 1, 1945---------- 1424

Table 10. Average reduction in rates of duty, imports subject to reduced rates, by tariff schedules, 1939---------- 1425

Table 11. Proportion of dutiable imports subject to reduced trade-agreement rates of duty by tariff schedules 1939---------- 1425

INTERNATIONAL TRADE ORGANIZATION

EXHIBITS

EXHIBIT I

[Pamphlet]

Department of State, November 1945

PROPOSALS FOR EXPANSION OF WORLD TRADE AND EMPLOYMENT

DEVELOPED BY A TECHNICAL STAFF WITHIN THE GOVERNMENT OF THE UNITED STATES IN PREPARATION FOR AN INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT AND PRESENTED FOR CONSIDERATION BY THE PEOPLES OF THE WORLD

Foreword by the Secretary of State

The proposals contained in this pamphlet have been developed by experts drawn from several agencies of the United States Government, working together under the general chairmanship of William L. Clayton, Assistant Secretary of State, and are published, for consideration by the people of the United States and by the peoples and the governments of other countries, in preparation for an International Conference on Trade and Employment.

It is important that such a Conference, based on these or similar proposals, should meet as soon as possible. Nations are now determining the policies which they will apply to trade in the postwar world. It is urgently necessary that these policies should be agreed upon, in order that the world may not separate into economic blocs.

The Government of the United States, therefore, believes that such a Conference should meet, under the sponsorship of the United Nations, not later than the summer of 1946. The representatives of the United States in the appropriate organs of the United Nations will urge that this be done.

The success of such a Conference depends on adequate preparation. This preparation should go forward immediately. The present publication and the careful work that lies behind it represent a determined effort to come to grips with the problems that will confront such a Conference and so to prepare the way for its success.

JAMES F. BYRNES.

DEPARTMENT OF STATE,
Washington, November 1, 1945.

MR. SECRETARY: I hand you herewith "Proposals for Consideration by an International Conference on Trade and Employment", together with a statement of their purpose.

These proposals have been developed over many months by a group of experts drawn from all the interested departments and agencies of the government. They are intended to suggest a way in which the United States and other countries may concert their policy and action in the field of international trade so that the enormous productive powers which lie all about us may be released to operate fully for the general benefit. They are not regarded as final and perfect, but as a working basis for discussion and, I hope, for international action in the near future.

It is important that international agreement on the range of questions covered by these proposals be reached soon. All countries are faced by serious commercial problems and are taking action on them every day. Unless they act together, they will act at cross-purposes and may well do serious damage to each other. But if they do act together, there is every possibility that the peoples of the world may enjoy, in our lifetime, a higher degree of prosperity and welfare than they have ever had before. Powers of production are now the greatest that the world has known. To bring them into play requires agreement on principles of exchange and distribution which will permit trade, production, employment, and consumption all to expand together.

I therefore recommend that these proposals be published as a basis of discussion and I would hope that such discussion might lead to an International Conference on Trade and Employment, to meet under the sponsorship of the United Nations, not later than the summer of 1946.

Respectfully,

WILLIAM L. CLAYTON,
Assistant Secretary of State.

CONTENTS

	Page
Analysis of the Proposals	678
I. Release from Restrictions Imposed by Governments	679
II. Release from Restrictions Imposed by Private Combines and Cartels	680
III. Release from Fear of Disorder in the Markets for Primary Commodities	681
IV. Release from Fear of Irregularity in Production and Employment	681
V. An International Trade Organization	682
Proposals for Consideration by an International Conference on Trade and Employment	682
A. Need for International Economic Cooperation	682
Proposals for Consideration by an International Conference on Trade and Employment—Continued	
B. Proposals Concerning Employment	683
C. Proposals Concerning an International Trade Organization	683
Chapter I. Purposes	684
Chapter II. Membership	684
Chapter III. General Commercial Policy	684
Chapter IV. Restrictive Business Practices	688
Chapter V. Intergovernmental Commodity Arrangements	689
Chapter VI. Organization	691

EXPANSION OF WORLD TRADE AND EMPLOYMENT

ANALYSIS OF THE PROPOSALS

The main prize of the victory of the United Nations is a limited and temporary power to establish the kind of world we want to live in.

That power is limited by what exists and by what can be agreed on. Human institutions are conservative; only within limits can they be moved by conscious choice. But after a great war some power of choice exists; it is important that the United Nations use it wisely.

The fundamental choice is whether countries will struggle against each other for wealth and power, or work together for security and mutual advantage. That choice was made in principle at San Francisco and has since been ratified by the overwhelming majority of the governments concerned. The business of the immediate future is to give that decision the necessary body of comon institutions and so to support those institutions that the experiment may succeed.

Succes requires that the United Nations work together in every field of common interest in particular the economic. The experience of cooperation in the task of earning a living promotes both the habit and the techniques of common effort and helps make permanent the mutual confidence on which the peace depends. The United Nations have therefore created not only an Economic and Social Council but special bodies to help them work together on many practical matters. Already there exist, or are in process of creation, agencies to deal with emergency relief, with currency, with international investment, with civil aviation, with labor, and with food and agriculture.

The United Nations should also endeavor to harmonize their policies with respect to international trade and employment. An International Trade Organization is still to be created. To this end it is now proposed that an International Conference on Trade and Employment should be called by the United Nations, to meet not later than the summer of 1946.

The common interests of countries in world trade are obvious. Science and technology have enormously increased the productive powers of man. Limits upon human welfare are imposed today, not by the ultimate poverty of nature's resources, but by failure to use human powers to the full. Among the factors which

obstruct our march toward the goal of freedom from want are excessive restrictions on exchange and distribution. Progress requires release from these restrictions.

Every country has its arrangements for the organization of production and distribution within its borders. To make the best use of these arrangements, countries must exchange their products. World trade is not only the device through which useful goods produced in one country are made available to consumers in another; it is also the means through which the needs of people in one country are translated into orders and therefore into jobs in another. Trade connects employment, production and consumption and facilitates all three. Its increase means more jobs, more wealth produced, more goods to be enjoyed.

Countries should therefore join in an effort to release trade from the various restrictions which have kept it small. If they succeed in this they will have made a major contribution to the welfare of their peoples and to the success of their common efforts in other fields.

International trade is kept small by four things:

(1) Restrictions imposed by governments;
(2) Restrictions imposed by private combines and cartels;
(3) Fear of disorder in the markets for certain primary commodities;
(4) Irregularity, and the fear of irregularity, in production and employment.

The Proposals which are herewith published deal with each of these problems.

I. RELEASE FROM RESTRICTIONS IMPOSED BY GOVERNMENTS

Governments have restricted the freedom of traders by many measures and for many reasons. They will continue to do so. No government is ready to embrace "free trade" in any absolute sense. Nevertheless, much can usefully be done by international agreement toward reduction of governmental barriers to trade.

These barriers take many forms. A transaction between a willing buyer in one country and a willing seller in another may be prevented because the tariff of the buyer's country creates an added cost too great to be borne; or because the paper-work required for export or import is so burdensome that the deal is not worth while; or because the seller cannot get an export license; or because the buyer cannot acquire the seller's currency to make a payment; or because importation is restricted by the buyer's country to a quota which has been exhausted; or because it is forbidden altogether. Or the seller may discover that the tariff of the buyer's country discriminates against him in favor of sellers located elsewhere.

All these restrictions and the red tape connected with them have undoubtedly prevented many business transactions, cut down the total world trade, and reduced to that extent the benefits which trade might bring to all the parties concerned.

Barriers of this sort are imposed because they serve or seem to serve some purpose other than the expansion of world trade. Within limits they cannot be forbidden. But when they grow too high, and especially when they discriminate between countries or interrupt previous business connections, they create bad feeling and destroy prosperity. The objective of international action should be to reduce them all and to state fair rules within which those that remain should be confined.

This has often been attempted between two countries at a time or among several countries with respect to a single problem. These attempts have not been adequate because the many barriers are interdependent. Every country has its own kind of restriction, adapted to its own situation, and can hardly be expected to throw off its peculiar armor unless the other kinds of armor, employed by other countries, are thrown off at the same time. What is needed is a broad and yet detailed agreement, among many nations, dealing at one time with many different sorts of governmental restrictions upon trade, reducing all of them at once on a balanced and equitable basis, and stating rules and principles within which the restrictions permitted to remain should be administered. To prepare such an agreement should be one of the main tasks of the International Conference on Trade and Employment.

The Proposals now published afford a basis on which agreement might be reached. Rules are suggested to limit quotas and embargoes to carefully defined cases and to avoid discrimination in their application. Provision is made

for the substantial reduction of tariffs and the elimination of tariff preferences. Subsidies, especially subsidies on exports, would be brought under supervision. Local taxes on imported products would be limited to rates no higher than those levied on like products produced at home. Agencies of governments conducting foreign trade would be asked to give fair treatment to the commerce of friendly states, to make their purchases and sales on economic grounds, and to avoid using a monopoly of imports to afford excessive protection to domestic producers. On these and other points the Proposals try to state fair principles acceptable to all and of benefit to all.

The proof of any principle is in its application. Therefore, effective preparation for the Conference must include detailed negotiations on trade barriers to commence as soon as possible. These negotiations should get down to cases, seeking to reduce tariffs, to eliminate preferences, and to lighten or remove other barriers to trade, whatever they may be.

In the United States, such negotiations are conducted under the Reciprocal Trade Agreements Act, which was renewed by Congress in June 1945 with an increase of the authority conferred upon the President. The use of that authority is one of the most important contributions which the United States can make to the success of the Conference.

Accordingly, this country should undertake negotiations under the Trade Agreements Act with several other governments as soon as a mutually satisfactory basis can be found, the required notices published, the statutory public hearings held, and their results considered. These negotiations cannot practicably be conducted with all countries at the same time, but the effort should be to get forward with the work, commencing before the general Conference convenes and continuing until every friendly country has participated in the enterprise.

Together, if they will, the countries of the world now have it in their power to free their trade from excessive governmental barriers. When that happens and to the extent that it happens, more ships will sail with fuller cargoes, more men will be employed, more goods will be produced, and more people will have better things to eat and wear and otherwise consume.

II. RELEASE FROM RESTRICTIONS IMPOSED BY PRIVATE COMBINES AND CARTELS

Trade may also be restricted by business interests in order to obtain the unfair advantage of monopoly.

In many lines this has not happened, but in others, as experience discloses, firms have banded together to restrain competition by fixing common selling prices, by dividing the world into exclusive markets, by curtailing production, by suppressing technology and invention, by excluding their rivals from particular fields, and by boycotting outsiders. These practices destroy fair competition and fair trade, damage new businesses and small businesses, and levy an unjust toll upon consumers. Upon occasion, they may be even more destructive of world trade than are restrictions imposed by governments.

Goods can surmount a tariff if they pay the duty; they can enter despite a quota if they are within it. But when a private agreement divides the markets of the world among the members of a cartel, none of these goods can move between the zones while the contract is in force. Clearly, if trade is to increase as a result of the lightening of government restrictions, the governments concerned must make sure that it is not restrained by private combinations.

The Proposals therefore contemplate that countries will act, individually and cooperatively, to curb those restrictive business practices in international trade which interfere with the objectives of increased production and trade, access on equal terms to markets and raw materials, and high levels of employment and real income.

To this end, it is suggested that a special agency be established within the International Trade Organization to receive complaints concerning restrictive practices of international combines and cartels, to obtain and examine the facts which are relevant to such cases, and to advise the Organization as to the remedies that may be required.

Enforcement against private violators necessarily rests with member governments. It will be the function of the Organization to recommend to these governments that they take action under their own laws and procedures. In the United States, enforcement would continue to be by judicial proceedings under the antitrust laws.

III. RELEASE FROM FEAR OF DISORDER IN THE MARKETS FOR PRIMARY COMMODITIES

After a great war there is danger of violent and rapid movement in the markets for primary commodities. The production of some things has been increased enormously to meet a war demand or to replace sources of production cut off by enemy action. Some time after the end of the fighting, the war demand subsides, goods held by the armies are returned to normal channels, and old sources of production come back into the markets and add to supplies. There is suddenly too much of some commodities and the prices react accordingly. Many countries learned after the last war that such changes can be devastating.

If the Proposals so far discussed can be put into effect, a great advance will have been made toward increasing trade and business activity. The resulting expansion of incomes and consumption should go a long way toward enlarging the demand for primary commodities. The best cure for any surplus is more money in the pockets of consumers. And general prosperity will make it easier for people caught by a particular failure of demand to shift to other lines where opportunities are better.

Such shifts are occuring all the time in any progressive society. Public policy should not seek to prevent them, for they are a necessary part of the process by which the economy meets the changing needs of the people. But if the changes come too fast they may bring serious distress to many small producers and to their communities. It is important that the needed changes be made gradually.

When excess supplies threaten, the first effort obviously should be to increase consumption. But if study discloses that that cannot be done rapidly enough to be effective, other measures may be needed. And since action by one country is quite likely to affect producers and consumers in another, there should be consultation between governments.

Consultation may result in a proposal for an intergovernmental commodity agreement. Such agreements are not intended to freeze existing patterns of production, but rather to provide a program of adjustment and a period of time within which the essential changes can be made without undue hardship.

During the transition, it may be necessary to restrict production or exports, to fix prices, or to allocate shares of markets among producing countries. Controls of this sort should not be applied in any case unless the need is real and serious, affecting many people, and not curable by the normal process of competition. And when they are set up they should be strictly temporary, lasting no longer than required to carry out the necessary shifts. Their purpose is not to protect vested interests, but to prevent widespread distress during the course of necessary change.

Intergovernmental restrictions on production or on exports might be used—like international cartels—to take unfair advantage of consumers. Therefore the Proposals recommend adherence to the rule that consuming countries be entitled to participate along with producers in the original consideration of such agreements and be entitled also to an equal voice in their administration. Furthermore, there should be full publicity about each scheme and all its operations, in order that the world may make sure that it is managed in the general interest.

IV. RELEASE FROM FEAR OF IRREGULARITY IN PRODUCTION AND EMPLOYMENT

Every country will seek so to manage its own affairs that its business life will be free from violent depressions. The object of international action should be to insure that these national efforts reinforce each other and do not cancel out.

The industrial activity of every country is affected by the size and the regularity of its orders from abroad. When industry in any country slows down and its purchases of foreign materials are cut, the effects are felt in every corner of the globe. Full and regular production at home, with increased participation in world trade, is the greatest boon which any people can confer upon producers throughout the world.

It is important, however, that nations should not seek to obtain full employment for themselves by exporting unemployment to their neighbors. To seek employment by prohibiting imports or by subsidizing exports would be harmful and self-defeating. The business of the Conference, therefore, should be to establish general agreement that each country will seek, on its own account, to maintain full and regular production, that it will not do so by using measures which would damage other countries or prevent the expansion of world trade, and that all countries will cooperate in exchanging information and participate in consultations with respect to anti-depression policies.

V. AN INTERNATIONAL TRADE ORGANIZATION

Arrangements on this scale clearly require, for their successful operation, both an international forum where they may be discussed and improved and an international staff to assist in their administration.

The Proposals therefore suggest that an International Trade Organization be created, to stand beside the existing international agencies dealing with currency, investment, agriculture, labor, and civil aviation. It should have a constitution much like those of the other agencies set up by the United Nations, with enough internal specialization to enable it to perform the tasks assigned to it in dealing with trade barriers, restrictive business practices, and international commodity arrangements. Detailed suggestions on this matter are contained in the Proposals.

The Organization should be designed as the central international agency to deal with trade. It should be brought into relation with the Economic and Social Council in the manner provided in the Charter of the United Nations.

* * *

The Proposals reflect awareness that we live in a world of many countries with a variety of economic systems. They seek to make it possible for those systems to meet the market-place without conflict, thus to contribute each to the other's prosperity and welfare. In no case do they impinge upon sovereign independence, but they do recognize that measures adopted by any country may have effects abroad and they suggest for general adoption fair rules of mutual tolerance.

The purpose is to make real the principle of equal access to the markets and the raw materials of the world, so that the varied gifts of many peoples may exert themselves more fully for the common good. The larger purpose is to contribute to the effective partnership of the United Nations, to the growth of international confidence and solidarity, and thus to the preservation of the peace.

PROPOSALS FOR CONSIDERATION BY AN INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

A. NEED FOR INTERNATIONAL ECONOMIC COOPERATION

1. Collective measures to safeguard the peoples of the world against threats to peace and to reach just settlements of disputes among nations must be based not only on international machinery to deal directly with disputes and to prevent aggression, but also on economic cooperation among nations with object of preventing and removing economic and social maladjustments, of achieving fairness and equity in economic relations between States, and of raising the level of economic well-being among all people.

2. Important contributions have already been made toward the attainment of these objectives. The food and Agriculture Organization of the United Nations has been established. An International Monetary Fund to maintain reasonable exchange stability and facilitate adjustment in the balance of payments of member countries, and an International Bank for Reconstruction and Development to provide financial resources on a cooperative basis for those purposes are awaiting the action of governments required for their establishment.

3. In order to reach the objectives of the Atlantic Charter and Article VII of the mutual-aid agreements, it is essential that the cooperative economic measures already taken or recommended be supplemented by further measures dealing directly with trade barriers and discriminations which stand in the way of an expansion of multilateral trade and by an undertaking on the part of nations to seek full employment.

4. Cooperative action with respect to trade and employment is indispensable to the success of such other measures as those dealing with monetary and exchange stability and the flow of investment capital. Effective action in regard to employment and to trade barriers and discriminations must, therefore, be taken or the whole program of international economic cooperation will fail, and an economic environment conducive to the maintenance of peaceful international relations will not be created.

B. PROPOSALS CONCERNING EMPLOYMENT

Since high and stable levels of employment are a necessary condition for an enlarged volume of trade, and since problems of trade and employment are to be considered jointly at an international conference, the following propositions are advanced.

Governing Principles

1. It is recognized that:

a. In all countries high and stable employment is a main condition for the attainment of satisfactory levels of living.

b. The attainment of approximately full employment by the major industrial and trading nations, and its maintenance on a reasonably assured basis, are essential to the expansion of international trade on which the full prosperity of these and other nations depends; to the full realization of the objectives of all liberal international agreements in such fields as commercial policy, commodity problems, restrictive business practices, monetary stabilization, and investment; and, therefore, to the preservation of world peace and security.

2. Domestic programs to [illegible]and employment should be consistent with realization of the purposes of liberal international agreements and compatible with the economic well-being of other nations.

3. It is recognized that the adoption of the Bretton Woods agreements and of measures to reduce restrictions on trade will contribute substantially to the maintenance of productive employment.

4. The United Nations have pledged, in the Charter of the United Nations Organization, to take joint and separate action in cooperation with the Organization to achieve the economic and social purposes of the United Nations, including higher standards of living, full employment, and conditions of economic and social progress and development.

Effectuation of Aims

There should be an undertaking that:

1. Each of the signatory nations will take action designed to achieve and maintain full employment within its own jurisdiction, through measures appropriate to its political and economic institutions.

2. No nation will seek to maintain employment through measures which are likely to create unemployment in other countries or which are incompatible with international undertakings designed to promote an expanding volume of international trade and investment in accordance with comparative efficiences of production.

3. Signatory nations will make arrangements, both individually and collaboratively under the general sponsorship of the Economic and Social Council of the United Nations Organization, for the collection, analysis, and exchange of information on employment problems, trends, and policies.

4. Signatory nations will, under the general sponsorship of the Economic and Social Council, consult regularly on employment problems and hold special conferences in case of threat of widespread unemployment.

C. PROPOSALS CONCERNING AN INTERNATIONAL TRADE ORGANIZATION

Need for an International Trade Organization

1. Measures designed to effect an expansion of trade are essential because of their direct contribution to maximum levels of employment, production and consumption. Since such expansion can only be attained by collective measures, in continuous operation and adaptable to economic changes, it is necessary to establish permanent machinery for international collaboration in matters affecting international commerce, with a view to continuous consultation, the provision of expert advice, the formulation of agreed policies, procedures and plans, and to the development of agreed rules of conduct in regard to matters affecting international trade.

2. It is accordingly proposed that there be created an International Trade Organization of the United Nations, the members of which would undertake to conduct their international commercial policies and relations in accordance with

agreed principles to be set forth in the articles of the Organization. These principles, in order to make possible an effective expansion of world production, employment, exchange, and consumption, should:

a. Provide an equitable basis for dealing with the problems of governmental measures affecting international trade;

b. Provide for the curbing of restrictive trade practices resulting from private international business arrangements; and

c. Govern the institution and operation of intergovernmental commodity arrangements.

Proposed International Trade Organization

There follows an outline of the principles which it is proposed should be incorporated in the articles of the Organization:

CHAPTER I. PURPOSES

The purposes of the Organization should be:

1. To promote international commercial cooperation by establishing machinery for consultation and collaboration among member governments regarding the solution of problems in the field of international commercial policies and relations.

2. To enable members to avoid recourse to measures destructive of world commerce by providing, on a reciprocal and mutually advantageous basis, expanding opportunities for their trade and economic development.

3. To facilitate access by all members, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity.

4. In general, to promote national and international action for the expansion of the production, exchange and consumption of goods, for the reduction of tariffs and other trade barriers, and for the elimination of all forms of discriminatory treatment in international commerce; thus contributing to an expanding world economy, to the establishment and maintenance in all countries of high levels of employment and real income, and to the creation of economic conditions conducive to the maintenance of world peace.

CHAPTER II. MEMBERSHIP

The original members of the Organization should be those countries participating in the Conference on Trade and Employment which accept membership.

CHAPTER III. GENERAL COMMERCIAL POLICY

Section A. General Commercial Provisions

Members should undertake:

1. To accord to products imported from other members treatment no less favorable than that accorded to domestic products with regard to matters affecting the internal taxation and regulation of the trade in goods.

2. To provide, for products in transit through their territories, coming from or going to other members, freedom from customs and transit duties, from unreasonable transit charges, and from discriminatory treatment of all kinds.

3. To subscribe to a general definition of the circumstances under which anti-dumping and countervailing duties may properly be applied to products imported from other members.

4. To give effect, as soon as practicable, to agreed principles of tariff valuation designed to assure the use of true commercial values as a basis for assessing duties, and to cooperate with other members and with the Organization in working out internationally acceptable valuation procedures of a standardized character.

5. To give effect, as soon as practicable, to agreed principles looking toward the simplification of customs formalities with a view to eliminating unnecessary requirements which afford an indirect protection to domestic products.

6. To eliminate excessive requirements regarding marks of origin in so far as they affect products imported from other members.

7. To refrain from governmentally financed or organized boycotts or campaigns designed to discourage, directly or indirectly, importation or consumption of products of other members.

8. To provide for adequate publicity regarding laws and regulations affecting foreign trade, and to maintain or establish national tribunals of an independent character to review and correct administrative customs action.

9. To transmit to the Organization appropriate trade information and statistics.

10. To cooperate with the Organization and with other members in carrying out or implementing the articles of the Organization.

Section B. Tariffs and Preferences

1. *Import tariffs and preferences.* In the light of the principles set forth in Article VII of the mutual aid agreements, members should enter into arrangements for the substantial reduction of tariffs and for the elimination of tariff preferences, action for the elimination of tariff preferences being taken in conjunction with adequate measures for the substantial reduction of barriers to world trade, as part of the mutually advantageous arrangements contemplated in this document.

As an initial step in the process of eliminating tariff preferences it should be agreed that:

a. Existing international commitments will not be permitted to stand in the way of action agreed upon with respect to tariff preferences.

b. All negotiated reductions in most-favored-nation tariffs will operate automatically to reduce or eliminate margins of preference.

c. Margins of preference on any product will in no case be increased and no new preferences will be introduced.

2. *Export tariffs and preferences.* Export duties should be open to negotiation in the same way as import duties. Members should undertake not to impose or maintain export duties which differentiate by reference to the destinations to which the goods are exported.

3. *Emergency action.* Commitments with regard to tariffs should permit countries to take temporary action to prevent sudden and widespread injury to the producers concerned. Undertakings for reducing tariffs should therefore contain an escape clause to cover such contingencies.

Section C. Quantitative Trade Restrictions

1. *General elimination of quantitative restrictions.* Except as provided for elsewhere in this Chapter, members should understake not to maintain any quotas, embargoes, or other quantitative restrictions on their export or import trade with other members. This undertaking should not, however, apply to the following:

a. Import and export prohibitions or restrictions, imposed during the early postwar transitional period, which are essential to (*a*) the efficient use of shipping space in short supply, (*b*) the equitable international distribution of products in short supply, or (*c*) the orderly liquidation of temporary surpluses of government stocks accumulated as a result of the war. Such prohibitions and restrictions should be removed not later than three years after the close of hostilities, but provision should be made whereby this period may be extended with the concurrence of the Organization.

b. Export prohibitions or restrictions temporarily imposed to relieve conditions of distress in the exporting country caused by severe shortages of foodstuffs or other essential products.

c. Export prohibitions or restrictions necessary to the application of suitable standards for the classification and grading of commodities in international commerce.

d. Export or import quotas imposed under intergovernmental commodity agreements conforming to the principles set forth in Chapter V.

e. Import quotas on agricultural products, imported in any form, necessary to the enforcement of governmental measures which operate (*a*) to restrict the quantities of like domestic products which may be marketed or produced, or (*b*) to remove a temporary surplus of like domestic products by making such surpluses available to certain groups of domestic consumers free of charge or at prices below the current market level. Such quotas should not be more restrictive than necessary, should be removed as soon as they cease to be necessary for the purposes of this subparagraph, and should be made the subject of periodic consulation with the Organization. If such quotas are allocated among sources of supply, they should be allocated fairly, on the basis of imports during a previous representative period, account being

taken in so far as practicable of any special factors which may have affected or which may be affecting the trade in the product concerned. Import quotas imposed under (*a*) of this subparagraph should not be such as would reduce imports relatively to domestic production as compared with the proportion prevailing in a previous representative period, account being taken in so for as practicable of any special factors which may have affected or which may be affecting the trade in the product concerned.

2. *Restrictions to safeguard the balance of payments.* Members confronted with an adverse balance of payments should be entitled to impose quantitative import restrictions as an aid to the restoration of equilibrium in the balance of payments. This provision should be operative under conditions and procedures to be agreed upon. These conditions and procedures

a. should set forth criteria and requirements in the light of which balance-of-payments restrictions might be imposed;

b. should, as regards the use of such restrictions in the post-war transitional period, be framed on principles which would be designed to promote the maximum development of multilateral trade during that period and which in no event would be more restrictive of such trade than the principles applicable, under Article XIV of the International Monetary Fund Agreement, to the use of exchange restrictions in the transitional period;

c. should provide for the determination of the transitional period for the purposes of subparagraph *b*, above, by a procedure analogous to that contained in Article XIV of the International Monetary Fund Agreement;

d. should provide for the full application of nondiscrimination in the use of such restrictions after the transitional period; and

e. should make appropriate provision for international consultation regarding balance-of-payments restrictions, whether imposed during the transitional period or thereafter.

3. *Equality of treatment.* Quantitative restrictions imposed on balance-of-payments grounds should be deemed nondiscriminatory if they are administered on a basis which does not discriminate among sources of supply in respect of any imported product.

a. In the case of restrictions imposed in the form of quotas, members imposing such quotas should publish the global amounts or values of the various products which will be permitted to be imported during a specified future period. Any allocation of such quotas among sources of supply should be based in so far as practicable upon the proportion of the total imports of the product in question supplied by the various member countries in a previous representative period, account being taken of any special factors which may have affected or which may be affecting the trade in that product.

b. In the case of restrictions not imposed in the form of quotas, the member imposing the restrictions should undertake to provide, upon the request of any other member having an interest in the product concerned, all relevant information as to the administration of the restriction, including information as to the import licenses granted over a past period and the distribution of such licenses among sources of supply;

c. Any member should be entitled to raise with the Organization the question as to whether another member was imposing balance-of-payments restrictions, whether in the form of quotas or otherwise, in a manner not in harmony with the guiding principles stated above or in a manner which unnecessarily injured its commerce, and the member imposing the restrictions should undertake in these circumstances to discuss the grounds on which it had acted.

4. *Inconvertible currencies.* The undertakings set forth in paragraph 3, above, should not apply in cases in which their application would have the effect of preventing a member from utilizing inconvertible currencies for buying needed imports.

5. *Scarce currencies and currencies of territories having a common quota in the Monetary Fund.* Members should not be precluded by this Section from applying quantitative restrictions *a*) in pursuance of action which they may take under Article VII of the International Monetary Fund Agreement, relating to scarce currencies, or *b*) in a manner designed to maintain the par value of the currencies of territories having a common quota in the Monetary Fund, in accordance with Article XX, Section 4 (g) of that Agreement.

6. *Application of quantitative restrictions by state-trading organizations.* The provisions of this Section relating to quantitative restrictions on imports for

balance-of-payments reasons should apply equally to the restriction of imports by state-trading organizations for the same reasons.

Section D. Subsidies

1. *Subsidies in general.* Subject to the provisions of paragraphs 2 and 3, below, members granting any subsidy which operates to increase exports or reduce imports should undertake to keep the Organization informed as to the extent and nature of the subsidy, as to the reason therefor and as to the probable effects on trade. They should also be prepared, in cases where, under procedures approved by the Organization, it is agreed that serious injury to international trade threatens to result from the operation of the subsidy, to discuss with other members or with the Organization possible limitations on the quantity of the domestic product subsidized. In this paragraph, the term "subsidy" includes any form of internal income or price support.

2. *Export subsidies.* Subject to the provisions of paragraph 3, below, members should undertake not to take any action which would result in the sale of a product in export markets at a price lower than the comparable price charged for the like product to buyers in the home market, due allowance being made for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability. This undertaking should take effect, at latest, within 3 years of the establishment of the Organization. If at the end of that time any member considers itself unable to comply with the undertaking in respect of any particular commodity or commodities, it should inform the Organization, with an explanation of the reasons. It should then be decided by consultation among the interested members under procedures approved by the Organization whether there should be some further extension of time for the member desiring it in respect of the commodity or commodities concerned.

3. *Commodities in surplus supply.*

a. When it is determined, in accordance with procedures approved by the Organization, that a commodity is, or is likely to become in burdensome world surplus, the members which are important producers or consumers of the commodity should agree to consult together with a view to promoting consumption increases, to promoting the reduction of production through the diversion of resources from uneconomic production, and to seeking, if necessary, the conclusion of an intergovernmental commodity arrangement in accordance with the principles of Chapter V.

b. If, however, within a reasonable time to be agreed upon, such steps should fail of their object, the provisions of paragraphs 1 and 2, above, should cease to apply to such product until such time as it has been agreed under procedures approved by the Organization that those provisions should be reapplied to it.

c. With regard to any export subsidies which may be imposed under subparagraph (*b*), no member should employ such subsidies so as to enlarge its share of the world market, as compared with the share prevailing in a previous representative period. The question as to what period would be representative in respect of the particular product concerned should be a subject for international consultation through the Organization.

Section E. State Trading

1. *Equality of treatment.* Members engaging in state trading in any form should accord equality of treatment to all other members. To this end, members should undertake that the foreign purchases and sales of their state-trading enterprises shall be influenced solely by commercial considerations, such as price, quality, marketability, transportation and terms of purchase or sale.

2. *State monopolies of individual products.* Members maintaining a state monopoly in respect of any product should undertake to negotiate, in the manner contemplated for tariffs, the maximum protective margin between the landed price of the product and the price at which the product (of whatever origin, domestic or foreign) is sold in the home market. Members newly establishing such monopolies should agree not to create protective margins greater than the tariffs which may have been negotiated in regard to those products. Unless the product is subject to rationing, the monopoly should offer for sale such quantities of the product as will be sufficient to satisfy the full domestic demand.

3. *Complete state monopolies of foreign trade.* As the counterpart of tariff reductions and other actions to encourage an expansion of multilateral trade by other members, members having a complete state monopoly of foreign trade should undertake to purchase annually from members, on the nondiscriminatory

basis referred to in paragraph 1, above, products valued at not less than an aggregate amount to be agreed upon. This global purchase arrangement should be subject to periodic adjustment in consultation with the Organization.

Section F. Exchange Control

1. *Relation to the International Monetary Fund.* In order to avoid the imposition of trade restrictions and discriminations through exchange techniques, the members of the International Trade Organization should abide by the exchange principles established pursuant to the Articles of Agreement of the International Monetary Fund and for this reason it should be required that the Organization and the Fund have a common membership.

2. *Equality of exchange treatment.* Members maintaining or establishing exchange restrictions should undertake to accord to the trade of other members the equality of treatment with respect to all aspects of such restrictions required under the provisions of the Articles of Agreement of the International Monetary Fund or, in cases where the approval of the Fund is required, the equality of treatment prescribed by the Fund after consultation with the International Trade Organization.

Section G. General Exceptions

The undertakings in this Chapter should not be construed to prevent members from adopting or enforcing measures:

1. necessary to protect public morals;
2. necessary to protect human, animal or plant life or health;
3. relating to the traffic in arms, ammunition and implements of war, and, in exceptional circumstances, all other military supplies;
4. relating to the importation or exportation of gold or silver;
5. necessary to induce compliance with laws or regulations, such as those relating to customs enforcement, deceptive practices, and the protection of patents, trademarks and copyrights, which are not inconsistent with the purposes of the Organization;
6. relating to prison-made goods;
7. imposed for the protection of national treasures of artistic, historic or archaeological value;
8. undertaken in pursuance of obligations for the maintenance of peace and security; or
9. imposed, in exceptional cases, in accordance with a recommendation of the Organization formulated in accordance with criteria and procedures to be agreed upon.

Section H. Territorial Application of Chapter III

1. *Customs territories.* The provisions of Chapter III should apply to the customs territories of the members. If any member has more than one customs territory under its jurisdiction, each customs territory should be considered a separate member for the purpose of applying the provisions of Chapter III.

2. *Frontier traffic and customs unions.* The provisions of Chapter III should not prevent any member *a)* from according advantages to adjacent countries in order to facilitate frontier traffic or *b)* from joining a customs union, provided that such customs union meets certain agreed criteria. Members proposing to join a customs union should consult with the Organization and should make available to it such information as would enable it to make appropriate reports and recommendations.

CHAPTER IV. RESTRICTIVE BUSINESS PRACTICES

1. *Curbing of restrictive business practices.* There should be individual and concerted efforts by members of the Organization to curb those restrictive business practices in international trade (such as combinations or agreements to fix prices and terms of sale, divide markets or territories, limit production or exports, suppress technology or invention, exclude enterprises from particular fields, or boycott or discriminate against particular firms) which have the effect of frustrating the objectives of the Organization to promote expansion of production and trade, equal access to markets and raw materials, and the maintenance in all countries of high levels of employment and real income.

2. *Cooperation among members.* In order to achieve the purposes of paragraph 1, the Organization should be charged with the furtherance of this objective. The Organization should receive complaints from any member (or,

with the permission of the member, from commercial enterprises within its jurisdiction who allege that their interests are affected), that the objectives of the Organization are being frustrated by a private international combination or agreement. The Organization should be empowered to call upon any member to provide information relevant to such a complaint; it should consider such data and, if warranted, make recommendations to the appropriate members for action in accordance with their respective laws and procedures; it should be empowered to request reports from members as to their actions in implementing such recommendations, and to report thereon. The Organization should also be authorized, within the scope of its subject matter, to conduct studies, to make recommendations concerning uniform national standards, and to call conferences of member states for purposes of general consultation.

3. *Continued effectiveness of national laws and regulations directed against restrictive business practices.* Any act or failure to act on the part of the Organization should not preclude any member from enforcing within its own jurisdiction any national statute or decree directed toward the elimination or prevention of restrictive business practices in international trade.

4. *Special enforcement arrangements.* It should be provided that members may, by mutual accord, cooperate in measures for the purpose of making more effective any remedial order which has been issued by a duly authorized agency of another member.

CHAPTER V. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

The production of, and trade in, primary commodities is exposed to certain difficulties different in character from those which generally exist in the case of manufactured goods; and these difficulties, if serious, may have such widespread repercussions as to prejudice the prospect of the general policy of economic expansion. Members should therefore agree upon the procedure which should be adopted to deal with such difficulties.

1. *Special commodity studies.*

a. Special studies should be made in accordance with the procedure set forth in *b*, below, of the position of particular commodities of which excess supplies exist or are threatened, to the end that, if possible, consumption may be increased and the anticipated difficulties may thereby be averted.

b. Members substantially interested in the production or consumption of a particular commodity should be entitled, if they consider that special difficulties exist or are expected to arise regarding that commodity, to ask that a special study of that commodity be made, and the Organization, if it finds that these representations are well founded, should invite the members principally concerned in the production or consumption of that commodity to appoint representatives to a Study Group to make a special study of that commodity.

2. *Intergovernmental commodity conferences.* If it is concluded, in the light of an investigation of the root causes of the problem, that measures for increasing the consumption of a commodity are unlikely to operate quickly enough to prevent excess supplies of the commodity from accumulating, the members may ask the Organization to convene an intergovernmental conference for the purpose of framing an intergovernmental commodity agreement for the commodity concerned.

3. *Objectives of intergovernmental commodity agreements.* It should be recognized that intergovernmental commodity agreements involving restrictions on production or trade would be justified in the circumstances stated in paragraph 2 above to achieve the following objectives:

a. To enable member countries to find solutions to particular commodity problems without resorting to unilateral action that tends to shift the burden of their problems to other countries.

b. To prevent or alleviate the serious economic problems which may arise when, owing to the difficulties of finding alternative employment, production adjustments cannot be effected by the free play of market forces as rapidly as the circumstances require.

c. To provide a period of transition which will afford opportunities for the orderly solution of particular commodity problems by agreement between member governments upon a program of over-all economic adjustments designed to promote a shift of resources and manpower out of over-expanded industries into new and productive occupations.

4. *Principles of intergovernmental commodity agreements.* Members should undertake to adhere to the following principles governing the institution of intergovernmental commodity agreements:

a. Members having an interest in the production or consumption of any commodity for which an intergovernmental commodity agreement is proposed, should be entitled to participate in the consideration of the proposed agreement.

b. Members should undertake not to enter into intergovernmental commodity agreements involving the limitation of production or exports or the allocation of markets, except after:

1) Investigation by the Study Group of the root causes of the problem which gave rise to the proposal;

2) Determination, in accordance with procedures approved by the Organization, either:

a) that a burdensome surplus of the product concerned has developed or is developing in international trade and is accompanied by widespread distress to small producers accounting for a substantial proportion of the total output and that these conditions cannot be corrected by the normal play of competitive forces because, in the case of the product concerned, a substantial reduction of price leads neither to a significant increase in consumption nor to a significant decrease in production; or

b) that widespread unemployment, unrelated to general business conditions, has developed or is developing in respect of the industry concerned and that such unemployment cannot be corrected by the normal play of competitive forces rapidly enough to prevent widespread and undue hardship to workers because, in the case of the industry concerned, I) a substantial reduction of price does not lead to a significant increase in consumption but leads, instead, to the reduction of employment, and II) the resulting unemployment cannot be remedied by normal processes of reallocation;

3) Formulation and adoption by members of a program of economic adjustment believed to be adequate to insure substantial progress toward solution of the problem within the time limits of the agreement.

c. Intergovernmental agreements involving the limitation of production or exports or the allocation of markets in respect of fabricated products should not be resorted to unless the Organization finds that exceptional circumstances justify such action. Such agreements should be subject to the principles set forth in this Chapter, and, in addition, to any other requirements which the Organization may establish.

5. *Operation of commodity agreements.* Members should undertake to adhere to the following principles governing the operation of intergovernmental commidity agreements:

a. The agreements should be open to accession by any member on terms not less favorable than those accorded to members parties thereto.

b. The members adhering to such agreements which are largely dependent for consumption on imports of the commodity involved should, in any determinations made relating to the regulation of prices, trade, stocks, or production, have together a voice equal to those largely interested in obtaining export markets for their production.

c. The agreements should, when necessary, contain provisions for assuring the availability of supplies adequate at all times for world consumption requirements at reasonable prices.

d. The agreements should, with due regard to the transitional need for preventing serious economic and social dislocation, make appropriate provision to afford increasing opportunities for satisfying world requirements from sources from which such requirements can be supplied most effectively.

6. *Termination and renewal of commodity agreements.* Intergovernmental commodity agreements should not remain initially in effect for more than five years. The renewal of an agreement should be subject to the principles governing new agreements set forth in paragraph 4, above, and to the additional principle that either *a*) substantial progress toward a solution of the underlying problem shall have been accomplished during the initial period of the agreement or that (*b*) the renewed agreement is so revised as to be effective for this purpose.

7. *Review of commodity agreements.* Members should undertake to transmit to the Organization, for review, intergovernmental commodity agreements in which they now participate or in which they propose to participate in the future.

Members should also transmit to the Organization appropriate information regarding the formulation, provisions and operation of such agreements.

8. *Publicity.* Full publicity should be given to any commodity agreement proposed or concluded, to the statements of considerations and objectives advanced by the proposing members, to the operation of the agreements, and to the nature and development of measures adopted to correct the underlying situation which gave rise to the agreement.

9. *Exceptions.* The provisions of Chapter V are not designed to cover international agreements relating to the protection of public morals; the protection of human, animal or plant life or health; the conservation of reserves of exhaustible natural resources; the control of international monopoly situations; or the equitable distribution of commodities in short supply. However, such agreements should not be used to accomplish results inconsistent with the objectives of Chapter IV or Chapter V. If any such agreement involves the restriction of production or of international trade, it should not be adopted unless authorized or provided for by a multilateral convention subscribed to by a substantial number of nations, or unless operated under the Organization.

CHAPTER VI. ORGANIZATION

Section A. Functions

The functions of the Organization should include the following:

1. To collect, analyze and publish information, regarding the operation of Chapter III, relating to general commercial policy, Chapter IV, relating to the prevention of restrictive business practices, and Chapter V, relating to intergovernmental commodity arrangements, or in general regarding international trade and commercial policy.

2. To provide technical assistance to members as may be required or appropriate under the provisions of Chapters VII, IV and V.

3. To make recommendations to members regarding the operation of Chapters III, IV and V, including the following:

a. Recommendations regarding the relaxation or removal of trade control measures permitted under Chapter III.

b. Recommendations as to measures for implementing the objectives with regard to restrictive private business practices, set forth in Chapter IV.

c. Recommendations regarding the application to commodity arrangements under consideration by members of the principles governing commodity arrangements set forth in Chapter V; and recommendations initiating proposals for new commodity arrangements, or proposing such modifications, including termination, of commodity arrangements already concluded, as may be deemed appropriate under the commodity principles or in the general interest.

d. Recommendations designed to promote the maximum obtainable consistency in the operation of Chapters III, IV and V and in other arrangements in the fields of general commercial policy, commodity arrangements and private business practices.

4. To interpret the provisions of Chapters III, IV and V, to consult with members regarding disputes growing out of the provisions of those Chapters, and to provide a mechanism for the settlement of such disputes.

5. In accordance with criteria and procedures to be agreed upon, to waive particular obligations of members, in exceptional circumstances.

6. To make recommendations for international agreements designed to improve the bases of trade and to assure just and equitable treatment for the enterprises, skills and capital brought from one country to another, including agreements on the treatment of foreign nationals and enterprises, on the treatment of commercial travelers, on commercial arbitration, and on the avoidance of double taxation.

7. Generally to perform any function appropriate to the purposes of the Organization.

Section B. Organs

The Organization should have as its principal organs: A Conference, an Executive Board, a Commercial Policy Commission, a Commission on Business Practices, a Commodity Commission, and a Secretariat.

Section C. The Conference

The Conference should have final authority to determine the policies of the Organization and to exercise the powers conferred upon the Organization.

1. *Membership.* All states members of the Organization should be members of the Conference.

2. *Voting.* Each member of the Conference should have one vote. Except as may be otherwise specifically provided for, decisions of the Conference should be reached by a simple majority vote. It may be desirable to provide for special voting arrangements with regard to the exercise of certain functions of the Organization.

3. *Sessions.* The Conference should meet at least once a year.

Section D. The Executive Board

The Executive Board should be authorized to take provisional decisions between meetings of the Conference and to exercise such powers as may be delegated to it by the Conference. The Conference should in general be authorized to delegate its powers to the Executive Board.

1. *Membership.* The Executive Board should consist of not more than eighteen member states, each of which should have one representative. Member states of chief economic importance should have permanent seats. The Conference should elect the states to fill the nonpermanent seats for 3-year terms, one-third of the nonpermanent members retiring every year. The number of nonpermanent seats should exceed the number of permanent seats, but the latter should not be fewer than one-third of the total number of seats.

2. *Voting and sessions.* The Executive Board should regulate its own procedure.

Section E. The Commissions

The Commission on Commercial Policy, the Commission on Business Practices and the Commodity Commission should be responsible to the Executive Board. Each Commission should be given as much initiative and independence of action as may be necessary for the effective discharge of its functions.

1. *Membership.* The Commissions should be composed of experts appointed by the Executive Board. The terms and other conditions of office of the members of the Commissions should be determined in accordance with regulations prescribed by the Conference. Such terms and conditions need not be uniform, but may vary from Commission to Commission. Pursuant to the reciprocal arrangements with other specialized international organizations contemplated in Section H, paragraph 2, of this Chapter, provision should be made for appropriate representation on the Commodity Commission of the Food and Agriculture Organization of the United Nations and of other specialized international organizations having an important interest in the commodity operations discussed in Chapter. V.

2. *Chairmen.* The Chairmen of the Commissions should be nonvoting members of the Executive Board and should be permitted to participate, without vote, in the deliberations of the Conference.

3. *Voting and sessions.* Each Commission should regulate its own procedure, subject to any decisions made by the Executive Board.

4. *Functions.* The functions of the Commissions should include the following:

a. The Commercial Policy Commission. The Commercial Policy Commission should:

1) Review, and advise the Executive Board regarding, the operation of treaties, agreements, practices and policies affecting international trade.

2) Investigate, and advise the Executive Board regarding, the economic aspects of proposals to waive certain obligations of members in accordance with the provisions of paragraph 5, Section A, of this Chapter.

3) Investigate, and advise the Executive Board regarding, the economic aspects of proposed customs unions.

4) Develop and recommend to the Executive Board, for adoption by members of the Organization, cooperative projects of a technical nature in the field of commercial policy (e. g. standard bases and methods of determining dutiable value, uniform customs nomenclature, and standardization of statistical methods and nomenclature in foreign trade statistics).

5) Develop and recommend to the Executive Board additional programs designed to further the objectives of the Organization in the general field of commercial policy.

b. The Commission on Business Practices. The Commission on Business Practices should:

1) Inquire into activities on the part of private commercial enterprises which have the effect or purpose of restraining international trade, restricting access to international markets, or of fostering monopolistic controls in international trade.

2) Advise the Executive Board with regard to the recommendations which should be made to members in respect of business divestitures, reorganizations, dissolutions or other remedial actions.

3) Conduct investigations and make recommendations to the Executive Board looking to the promotion and adoption in all countries of codes of fair business practices designed to facilitate and enlarge the flow of international trade.

4) Advise the Executive Board as to the types of information which members should file with the Organization.

5) Facilitate appropriate intergovernmental arrangements for the international exchange of technological information, on a nondiscriminatory basis.

c. *The Commodity Commission.* The Commodity Commission should:

1) Investigate commodity problems, including the problem of an international buffer stocks organization or other arrangements which are proposed as a means of promoting solutions to commodity problems.

2) Make recommendations to the Executive Board on appropriate courses of action, including recommendations for the establishment of Study Groups for particular commodities. Such Study Groups should be established by the Executive Board, upon the recommendations of the Commodity Commission, for the purpose of investigating problems with respect to particular commodities. The Study Groups should be composed of representatives of member governments invited to participate by the Executive Board and one or more representatives designated by the Commodity Commission.

3) Make recommendations to the Executive Board as to whether or not a particular commodity is in world surplus.

4) Make recommendations to the Executive Board as to whether an application made by a member for the convening of an intergovernmental conference should be granted.

5) Designate members of the Commission to participate in an advisory capacity in the formulation of intergovernmental commodity agreements.

6) Make recommendations to the Executive Board regarding the application of the commodity agreements under consideration by members.

7) Designate the Chairman and Secretary for any Commodity Council established to administer an intergovernmental commodity agreement.

8) Maintain continuous review of the conduct of the operations of intergovernmental commodity agreements in the light of the terms of the agreements, the commodity principles in Chapter V, and the general welfare; and make recommendations to the Executive Board with regard thereto.

Section F. Industrial and Mineral Unit

The Conference should create an Industrial and Mineral Unit responsible to the Executive Board. The Industrial and Mineral Unit should promote by technical assistance and other appropriate means the expansion of production and trade with regard to fabricated products and with regard to minerals and other primary commodities in respect of which such promotional activities are not under the jurisdiction of the Food and Agriculture Organization.

Section G. The Secretariat

The Secretariat, which should be divided into three or more offices, should serve all the organs of the Organization and the Commodity Councils established to administer specific commodity arrangements. It should be headed by a Director-General. Under his authority there should be three or more Deputy Director-General each of whom should be in charge of an office. The Director-General, and on the advice of the Director-General, the Deputy Directors-General, should be appointed by the Conference upon the nomination of the Executive Board. The Director-General should be the chief administrative officer of the Organization and should be an *ex officio* member, without vote, of the Executive Board. Three Deputy Directors-General should be *ex officio* members of the three Commissions. The Director-General and the Deputy Directors-General should have

the authority to initiate proposals for the consideration of any organ of the Organization.

Section II. Relations with Other Organizations

1. *Relations with the United Nations Organization.* The Organization should be brought into relationship with the United Nations Organization on terms to be determined by agreement between the Executive Board and the appropriate authorities of the United Nations Organization, subject to approval by the Conference.

2. *Relations with other specialized international organizations.* In order to provide for close cooperation between the Organization and other specialized international organizations with related responsibilities, the Executive Board, subject to the approval of the Conference, should be authorized to enter into agreements with the appropriate authorities of such organizations defining the distribution of responsibilities and methods of cooperation.

3. *Administrative arrangements.* The Director-General should be authorized, subject to the authority of the Conference or of the Executive Board, to enter into agreements with other international organizations for the maintenance of common services, for common arrangements in regard to recruitment, training, conditions of service, and other related matters, and for interchanges of staff.

EXHIBIT II

ECONOMIC AND SOCIAL COUNCIL

RESOLUTION REGARDING THE CALLING OF AN INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT

The Economic and Social Council, considering it essential that the cooperative economic measures already taken be supplemented by further international measures dealing directly with trade barriers and discriminations which stand in the way of an expansion of multilateral trade and by an undertaking on the part of nations to seek full employment.

1. DECIDES to call an International Conference on Trade and Employment, in the latter part of 1946, for the purpose of promoting the expansion of production, exchange and consumption of goods:

2. CONSTITUTES a Preparatory Committee to elaborate an annotated draft agenda, including a draft convention, for consideration by the Conference, taking into account suggestions which may be submitted to it by the Economic and Social Council or by any Member of the United Nations;

3. SUGGESTS, as a basis of discussion for the Preparatory Committee, that the agenda include the following topics:

(a) International agreement relating to the achievement and maintenance of high and stable levels of employment and economic activity.

(b) International agreement relating to regulations, restrictions, and discriminations affecting international trade.

(c) International agreement relating to restrictive business practices.

(d) International agreement relating to intergovernmental commodity arrangements.

(e) Establishment of an international trade organization, as a specialized agency of the United Nations, having responsibilities in the fields of (b), (c) and (d) above;

4. REQUESTS the Preparatory Committee, when considering the foregoing items, to take into account the special conditions which prevail in countries whose manufacturing industry is still in its initial stages of development, and the questions that arise in connection with commodities which are subject to special problems of adjustment in international markets;

5. REQUESTS the Preparatory Committee to report to a subsequent session of the Council recommendations regarding the date and place of the Conference and the agenda (including a draft convention) and also what States, if any, not Members of the United Nations, should be invited to the Conference on Trade and Employment;

6. APPOINTS as Members of the Preparatory Committee the representatives of the Governments of the following countries: Australia, Belgium, Luxembourg, Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Netherlands, New Zealand, Norway, South Africa, USSR, the United States of America and the United Kingdom.

EXHIBIT III

DEPARTMENT OF STATE . . . . . SEPTEMBER 1946

Suggested Charter

for an

INTERNATIONAL TRADE ORGANIZATION

of the UNITED NATIONS

An elaboration of the United States *Proposals for Expansion of World Trade and Employment* prepared by a technical staff within the Government of the United States and presented as a basis for public discussion.

Foreword

In December 1945 the Government of the United States published and transmitted to other governments for their consideration a document entitled *Proposals for Expansion of World Trade and Employment.*

These Proposals put forward the idea that there should be established an International Trade Organization of the United Nations, the members of which would agree to conduct their commercial relations in accordance with rules to be set forth in the Charter of the Organization. The Proposals contained suggestions for rules to govern trade barriers, restrictive business practices, intergovernmental commodity arrangements, and the international aspects of domestic employment policies and outlined a suggested structure for the International Trade Organization itself. The governments of several other countries have expressed their general agreement with these suggestions.

In February 1946 the Economic and Social Council of the United Nations, at its first meeting, adopted a resolution calling for an international conference on trade and employment to consider the creation of an International Trade Organization. It also established a Preparatory Committee of 19 countries to arrange for the conference and to prepare a draft Charter for such an Organization. The Preparatory Committee is to meet in London in the fall of 1946.

In preparation for the conference, the Government of the United States has prepared an elaboration of its Proposals in the form of a suggested Charter for the International Trade Organization. Copies of the suggested Charter have been transmitted to the Secretary-General of the United Nations and to the other governments named by the Economic and Social Council to serve on the Preparatory Committee.

The suggested Charter is the work of many persons of competence and experience in the departments and agencies of the United States Government. It is put forward, however, as a basis for discussion and not as a document expressing the fixed or final views of this Government. The draft should clarify possible obscurities and remove any misunderstandings to which the condensed language of the Proposals may have given rise.

W. L. CLAYTON
Under Secretary of State
for Economic Affairs

Contents

In contents use figures [ ]

Page

Establishment provisions 1

CHAPTER I. PURPOSES

Article 1. General purposes of the Organization 1

CHAPTER II. MEMBERSHIP

Article 2. Membership 1

CHAPTER III. EMPLOYMENT PROVISIONS

Article 3. Relation of employment to purposes of Organization 2
Article 4. General undertaking to promote full employment 2
Article 5. Avoidance of certain employment measures 2
Article 6. Consultation and exchange of information on matters relating to employment 2
Article 7. Assignment of functions to Economic and Social Council . . . 3

CHAPTER IV. GENERAL COMMERCIAL POLICY

SECTION A. GENERAL COMMERCIAL PROVISIONS

Article 8. General most-favored-nation treatment 3
Article 9. National treatment on internal taxation and regulation . . . 4
Article 10. Freedom of transit 4
Article 11. Antidumping and countervailing duties 5
Article 12. Tariff valuation 6
Article 13. Customs formalities 6
Article 14. Marks of origin 7
Article 15. Publication and administration of trade regulations—advance notice of restrictive regulations 8
Article 16. Information, statistics and trade terminology 9
Article 17. Boycotts 11

SECTION B. TARIFFS AND TARIFF PREFERENCES

Article 18. Reduction of tariffs and elimination of preferences 11

SECTION C. QUANTITATIVE RESTRICTIONS

Article 19. General elimination of quantitative restrictions 12
Article 20. Restrictions to restore equilibrium in the balance of payments. 14
Article 21. Nondiscriminatory administration of quantitative restrictions 16
Article 22. Exceptions from rule of nondiscrimination 17

SECTION D. EXCHANGE CONTROL

Article 23. Elimination of exchange restrictions in relation to current commodity transactions 17
Article 24. Nondiscriminatory administration of exchange restrictions . . 18

U.S. STATE LIBRARY

SECTION E. SUBSIDIES

Page

Article 25. General undertaking regarding subsidies—elimination of export subsidies—exceptions 18

SECTION F. STATE TRADING

Article 26. Nondiscriminatory administration of state-trading enterprises 20
Article 27. Expansion of trade by state monopolies of individual products. 21
Article 28. Expansion of trade by complete state monopolies of import trade. 22

SECTION G. EMERGENCY PROVISIONS—CONSULTATION—NULLIFICATION OR IMPAIRMENT

Article 29. Emergency action on imports of particular products. 22
Article 30. Consultation—nullification or impairment 23

SECTION H. RELATIONS WITH NON-MEMBERS

Article 31. Contractual relations with non-Members—treatment of trade of non-Members. 23

SECTION I. GENERAL EXCEPTIONS

Article 32. General exceptions to Chapter IV. 24

SECTION J. TERRITORIAL APPLICATION

Article 33. Territorial application of Chapter IV—customs unions—frontier traffic 25

CHAPTER V. RESTRICTIVE BUSINESS PRACTICES

Article 34. Policy toward restrictive business practices. 25
Article 35. Procedure with respect to complaints 26
Article 36. Studies and conferences relating to restrictive business practices. 27
Article 37. Obligations of Members 28
Article 38. Supplementary enforcement arrangements 28
Article 39. Continued effectiveness of domestic measures against restrictive business practices 29
Article 40. Exceptions to provisions of Chapter V. 29

CHAPTER VI. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

Article 41. General statement regarding intergovernmental commodity arrangements. 29
Article 42. Special commodity studies 29
Article 43. Commodity conferences 30
Article 44. Objectives of intergovernmental commodity agreements . . . 30
Article 45. Principles governing the institution of intergovernmental commodity agreements. 31
Article 46. Principles and requirements of intergovernmental commodity agreements. 32
Article 47. Commodity Councils 33
Article 48. Additional obligations of Members in respect of intergovernmental commodity agreements 34
Article 49. Exceptions to provisions relating to intergovernmental commodity agreements 34

CHAPTER VII. ORGANIZATION

SECTION A. FUNCTIONS

Page

Article 50. Functions of the Organization 35

SECTION B. STRUCTURE

Article 51. Structure of the Organization 36

SECTION C. THE CONFERENCE

Article 52. Conference—membership 36
Article 53. Conference—voting 36
Article 54. Conference—sessions, procedure and officers 36
Article 55. Conference—powers and duties 36
Article 56. Interim Tariff Committee 37

SECTION D. THE EXECUTIVE BOARD

Article 57. Executive Board—membership 38
Article 58. Executive Board—voting 38
Article 59. Executive Board—sessions, procedure and officers 38
Article 60. Executive Board—powers and duties 39

SECTION E. THE COMMISSIONS

Article 61. Establishment of commissions 39
Article 62. Composition and procedure of commissions 39
Article 63. General functions of commissions 40
Article 64. Functions of Commission on Commercial Policy 40
Article 65. Functions of Commission on Business Practices 40
Article 66. Functions of Commodity Commission 41

SECTION F. THE SECRETARIAT

Article 67. Composition of Secretariat 42
Article 68. Director General 42
Article 69. Deputy Directors General 42
Article 70. Secretariat staff 43

SECTION G. MISCELLANEOUS PROVISIONS

Article 71. Relations with other organizations 43
Article 72. International responsibilities of personnel of Organization . . 44
Article 73. Legal capacity of Organization 44
Article 74. Privileges and immunities of Organization 45
Article 75. Amendments to Charter 45
Article 76. Interpretation and settlement of legal questions 45
Article 77. Contributions of Members 46
Article 78. Entry into force 46
Article 79. Withdrawal and termination 47

Suggested Charter for an International Organization of the United Nations

ESTABLISHMENT

The International Trade Organization of the United Nations is hereby established and shall operate in accordance with the following provisions:

CHAPTER I. PURPOSES

Article 1. General Purposes of the Organization

The purposes of the Organization shall be:

1. To promote the solution of problems in the field of international commercial policies and relations through consultation and collaboration among Members.

2. To enable Members to avoid recourse to measures destructive of world commerce by providing, on a reciprocal and mutually advantageous basis, expanding opportunities for their trade and economic 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. In general, to promote national and international action for the expansion of the production, exchange and consumption of goods, for the reduction of tariffs and other trade barriers, and for the elimination of all forms of discriminatory treatment in international commerce; thus contributing to an expanding world economy, to the establishment and maintenance in all countries of high levels of employment and real income, and to the creation of economic conditions conducive to the maintenance of world peace.

5. To provide a centralized agency for the coordination of the work of Members to the above ends.

CHAPTER II. MEMBERSHIP

Article 2. Membership

1. The original Members of the Organization shall be those countries represented at the United Nations Conference on Trade and Employment which accept the provisions of this Charter by December

31, 194__, or, in the event that this Charter has not entered into force by that date, the countries which have agreed to bring this Charter into force pursuant to the proviso to paragraph 3 of Article 78.

2. Membership in the Organization shall be open to such other countries as accept the provisions of this Charter, subject to the approval of the Conference on recommendation of the Executive Board.

3. The Conference shall establish procedures that 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 PROVISIONS

Article 3. Relation of Employment to Purposes of Organization

The Members recognize that the attainment and maintenance of useful employment opportunities for those able, willing, and seeking to work are essential to the full realization of the purposes of the Organization. They also recognize that domestic programs to maintain or expand employment should be consistent with these purposes.

Article 4. General Undertaking to Promote Full Employment

Each Member shall take action designed to achieve and maintain full employment within its own jurisdiction through measures appropriate to its political and economic institutions.

Article 5. Avoidance of Certain Employment Measures

In seeking to maintain or expand employment, no Member shall adopt measures which would have the effect of creating unemployment in other countries or which are incompatible with undertakings designed to promote an expanding volume of international trade and investment.

Article 6. Consultation and Exchange of Information on Matters Relating to Employment

The Members agree that they will: (1) make arrangements for the collection, analysis, and exchange of information on employment problems, trends, and policies and for the submission at regular intervals of reports on the measures adopted to give effect to Article 4; (2) consult regularly on employment problems; and (3) hold special conferences in case of threat of widespread unemployment.

Article 7. Assignment of Functions to Economic and Social Council

In accordance with the Charter of the United Nations, the Economic and Social Council will be responsible for furthering the objectives of Chapter III and supervising the fulfillment of the obligations assumed under Article 6.

CHAPTER IV. GENERAL COMMERCIAL POLICY

SECTION A. GENERAL COMMERCIAL PROVISIONS

Article 8. General Most-Favored-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 relating to internal taxation or regulation referred to in Article 9, any advantage, favor, privilege or immunity granted by any Member country 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. The principle underlying this paragraph shall also extend to the awarding by Members of governmental contracts for public works, in respect of which each Member shall accord fair and equitable treatment to the commerce of the other Members.

2. The provisions of paragraph 1 of this Article shall not be construed to require the elimination of any preference in the rate of ordinary import customs duty which does not exceed the preference in force in any Member country on July 1, 1939 and which falls within the descriptions set forth in (*a*) or (*b*), below, but such preferences shall in no event be increased above their level on July 1, 1946 and shall be subject to processes of elimination pursuant to the provisions of Article 18:

a. Preferences in force exclusively between territories in respect of which there existed on July 1, 1939 common sovereignty or relations of protection or suzerainty. Each Member to which this provision applies shall provide a list of such territories in respect of which preferences were in force on that date, which lists shall be incorporated in an annex to this Charter.

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

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Article 9. National Treatment on Internal Taxation and Regulation

1. The products of any Member country imported into any other Member country shall be exempt from internal taxes and other internal charges higher than those imposed on like products of national origin, and shall be accorded treatment no less favorable than that accorded like products of national origin in respect of all internal laws, regulations or requirements affecting their sale, transportation or distribution or affecting their mixing, processing, exhibition or other use, including laws and regulations governing the procurement by governmental agencies of supplies for public use other than by or for the military establishment. 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, exhibited or used.

2. The Members recognize that the imposition of internal taxes on the products of other Member countries, for the purpose of affording protection to the domestic production of competitive products, would be contrary to the spirit of this Article, and they agree to take such measures as may be open to them to prevent in the future the adoption of new or higher taxes of this kind within their territories.

Article 10. Freedom of Transit

1. 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.

2. Any Member 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 other Member countries shall be exempt from the payment of any transit duty, customs duty, or similar charge, and shall not be subject to any unnecessary delays or restrictions.

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

4. With respect to all charges, rules, and formalities in connection with transit, each Member shall accord to traffic in transit to or from any other Member country treatment no less favorable than the treatment accorded to traffic in transit to or from any other country.

5. Each Member shall accord to products which have been in transit through any other Member country treatment no less favorable than that which would have been accorded to such products had they been transported from their origin to their destination without going through such other Member country.

6. Persons, baggage and goods, and also vessels, coaching and goods stock, 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 transshipment, 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 transit takes place. Traffic of this nature is termed in this Article "traffic in transit."

Article 11. Antidumping and Countervailing Duties

1. No antidumping duty 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 a product exported from one country to another is less than (*a*) the comparable price charged for the like or similar product to buyers in the domestic market of the exporting country, or, (*b*) in the absence of such domestic price, the highest comparable price at which the like or similar product is sold for export to any third country, or, (*c*) in the absence of (*a*) and (*b*), the cost of production of the product in the country of origin; 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 any other Member country in excess of an amount equal to the estimated bounty or subsidy ascertained to have been granted, directly or indirectly, on the production or export of such product in the country of origin or exportation.

3. No product of any Member country imported into any other Member country shall be subject to antidumping 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.

4. No product of any Member country imported into any other Member country shall be subject to both antidumping and countervailing duty to compensate for the same situation of dumping or export subsidization.

5. Each Member undertakes that as a general rule it will not impose any antidumping duty or countervailing duty on the importation of any product of other Member countries unless it determines that the dumping or subsidization, as the case may be, under which such product

is imported, is such as to injure or threaten to injure a domestic industry, or is such as to prevent the establishment of a domestic industry.

Article 12. Tariff Valuation

1. 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 restrictions based upon or regulated in any manner by value. With a view to furthering such cooperation, the Organization is authorized to investigate and recommend to Members such bases and methods for determining the value of products as would appear to be best suited to the needs of commerce and most capable of widespread adoption.

2. The Members recognize the validity of the following general principles of tariff valuation, and they undertake to give effect to such principles, in respect of all products subject to duty based upon or regulated by value, at the earliest practicable date:

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.

b. The value for duty purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export, from which the imported product has been 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, and until the elimination of dual or multiple rates of exchange either one or more than one rate for each dual- or multiple-rate currency may be so fixed.

d. The bases and methods for determining the value of products subject to duties regulated by value should be stable and should be published in full detail, in order that traders may be enabled to estimate, with a reasonable degree of certainty, the amount of duty likely to be imposed.

Article 13. Customs Formalities

1. The Members recognize the principle that subsidiary fees and charges imposed on o 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. Members undertake to review their customs laws and regulations with a view to giving effect to the principles and objectives of paragraph 1 of this Article at the earliest practicable date and shall report to the Organization from time to time on the progress made. The Organization is authorized to request such reports of Members and to assist and cooperate with them in carrying out the provisions of this paragraph.

3. Greater than nominal penalties shall not be imposed by any Member in connection 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. Moreover, Members shall remit any penalty imposed on or in connection with the importation of any product of any other Member country if it is officially found that the penalty has been imposed because of actions which resulted from errors or advice of responsible customs officials.

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

a. Consular transactions;
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 (plant, animal and human).

Article 14. 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 favorable than the treatment accorded like products of any third country.

3. Whenever administratively possible, Members shall permit required marks of origin to be imposed at the time of importation.

4. The laws and regulations of the 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 shall exempt from their marking requirements the following products:

a. Products incapable of being marked;

b. Products which cannot be marked except at unreasonable expense;

c. Products in transit and their containers;

d. Products in bond and their containers;

e. Samples and products without commercial value and their containers;

f. Containers of properly marked products of a type not ordinarily imported and sold at retail in sealed containers;

g. Products of a type ordinarily imported and sold at retail in sealed containers, provided such containers are properly marked;

h. Products over 20 years old and their containers;

i. Products intended for the personal use of the importer or his family or for use in his factory or place of business, and not intended for sale, and the containers of such products;

j. Crude substances and raw materials; and also the containers of such products if the products are intended for use by the person for whom the importation is made, or for his account in manufacturing new and different products.

6. No special duty or penalty shall be imposed by any Member for failure to comply with the marking requirements prior to importation unless corrective marking has been unreasonably delayed or false marks have been intentionally affixed or the required marking has been intentionally omitted.

Article 15. Publication and Administration of Trade Regulations—Advance Notice of Restrictive Regulations

1. Laws, regulations, decisions of judicial authorities and administrative rulings of general application made effective by any Member, pertaining to the classification or 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 or distribution, 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 a 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 publish administrative rulings which would disclose confidential information, impede law enforcement, or otherwise be inimical to the public interest.

2. Members shall administer in a uniform, impartial and reasonable manner all laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article. Moreover, they undertake to maintain, or to establish as soon as practicable, for the review and correction of administrative action relating to customs matters, judicial or administrative tribunals which are in fact independent of the agencies entrusted with administrative enforcement. Finally, each Member will enforce all measures necessary to suppress and prevent the exaction of charges and the prescription of requirements in respect of international trade which are not provided for in its published laws or regulations.

3. No law, regulation, decision or ruling of any Member effecting an advance in a rate of import or export duty or other charge under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports or exports or on the transfer of payments therefor, shall, as a general rule, be applied to products of any other Member already en route 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 or withdrawn from warehouse for consumption, or cleared for export, 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 antidumping or countervailing duties.

Article 16. Information, Statistics and Trade Terminology

1. Members agree to make available promptly to the Organization, in as detailed and accurate a manner as practicable, such statistics relating to their foreign trade as the Organization deems necessary in connection with the fulfillment of its functions, including as the minimum essential to the effective discharge of its duties data on the following subjects:

a. Exports and imports of merchandise, distinguishing in so far as possible the movement of transit trade, and taking into account the desirability of uniformity in international trade statistics;

b. Governmental revenue from import and export duties and from other taxes imposed on products moving in international trade, and subsidy payments affecting such trade.

2. Statistics of exports and imports of merchandise furnished to the Organization shall so far as practicable be related to tariff classifications and shall be in such form as to reveal the operation of any restrictions on importation or exportation which are based upon or regulated in any manner by quantity or value, or by amounts of exchange made available.

3. Members agree to make available to the Organization, in as detailed and accurate a manner as practicable, such statistics on other economic subjects as the Organization deems necessary in connection with the fulfillment of its functions, and in particular statistics relating to balances of payments and prices, so far as the statistics are not being furnished to any other international organization having functions to which the statistics are more particularly related and from which the Organization can obtain the required information.

4. The Organization shall act as a center for the collection and exchange of statistical and other information relating to international trade, thus facilitating the preparation of studies designed to assist Members in developing policies which further the purposes of this Charter. The Organization shall make such data available to the Economic and Social Council of the United Nations and to other interested international organizations and shall, in cooperation with these organizations, seek to bring about improvements in the methods of collecting, analyzing and publishing economic statistics, particularly those relating to international trade, and to promote the international comparability of such statistics, including the international adoption of standard commodity classifications. The Organization shall also, in cooperation with such other organizations, compile and publish summary comparative statistics relating to the subjects specified in paragraph 1 of this Article.

5. Members agree to publish the statistics referred to in paragraph 1 of this Article promptly and in as much detail as practicable and to cooperate with the Organization in carrying out the objectives of paragraph 1 of this Article.

6. Members undertake to cooperate with the Organization in promoting the international adoption of standard definitions of terms customarily used in commercial practice, and in developing standards to which goods may be manufactured or graded. Members undertake to

cooperate in introducing such standards as are found to be desirable and practicable to encourage the freer movement of goods in international trade.

7. The Organization, in cooperation with the other organizations referred to in paragraph 4 of this Article, may adopt standards, nomenclature, terms and forms to be used in official documents and statistics of Members in the field of international trade. Such standards, nomenclature, terms or forms shall automatically become effective as to all Members of the Organization after notice has been given of their adoption by the Organization, except for such Members as may notify the Director General of rejection or reservations within the period stated in the notice, which period shall be not less than six months.

Article 17. 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 other Member countries on grounds of origin, or the sale of products for consumption within other Member countries on grounds of destination. Moreover, each Member shall discourage, by such means as may be available to it, such campaigns by political entities within its jurisdiction.

Section B. Tariffs and Tariff Preferences

Article 18. Reduction of Tariffs and Elimination of Preferences

1. Each Member, other than a Member subject to the provisions of Article 28, 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 (or of margins of protection afforded by state trading) 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 action with respect to tariff preferences.

b. All negotiated reductions in most-favored-nation import tariffs shall operate automatically to reduce or eliminate margins of preference, so that, in respect of any product on which the most-favored-nation rate of duty is reduced or bound against increase pursuant to

the negotiations, the margin of preference which may apply to such product may not exceed the margin by which the most-favored-nation rate, as reduced or bound against increase, exceeds the preferential rate in force on July 1, 1939.

2. Each Member participating in negotiations pursuant to paragraph 1 of this Article 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 investigate the matter and make appropriate recommendations to the Members concerned. The Organization, if it finds that a Member has, without sufficient justification, failed to negotiate with such complaining Member as required by 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 8, be entitled to withhold from the trade of the other Member any of the tariff reductions 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, and if such reductions are in fact withheld, such other Member shall then be free, within sixty days after such action is taken, to withdraw from the Organization on sixty days' written notice to the Organization. The provisions of this paragraph shall operate in accordance with the provisions of Article 56.

Section C. Quantitative Restrictions

Article 19. General Elimination of Quantitative Restrictions

1. Except as otherwise provided elsewhere in this Chapter,[1] no prohibition or restriction other than duties, taxes or other charges, whether made effective through quotas, licenses or other measures, shall be imposed or maintained by any Member country 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:

[1] See paragraph 2 of Article 19; Article 20; paragraph 1 of Article 22; and Article 29.

a. Prohibitions or restrictions on imports or exports, imposed 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 country, or (*ii*) the orderly liquidation of temporary surpluses of stocks owned or controlled by the government of any Member country: *Provided*, That restrictions under (*ii*) of this subparagraph may be imposed by any Member only after consultation with other interested Members with a view to appropriate international action. Import and export prohibitions and restrictions imposed or maintained under this subparagraph shall be removed as soon as the conditions giving rise to them have ceased to exist and, in any event, not later than July 1, 1949: *Provided*, That this period may, in extraordinary and abnormal circumstances, and with the concurrence of the Organization, be extended in respect of any product for further periods not to exceed six months each.

b. Export prohibitions or restrictions temporarily imposed to relieve conditions of distress which are local to the exporting country and which are caused by severe shortages of foodstuffs or other essential products.

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

d. Export or import quotas imposed under intergovernmental commodity agreements concluded in accordance with the provisions of Chapter VI.

e. Import restrictions on any agricultural 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 subparagraph 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 imposed under (*i*) of this subparagraph shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion between the two prevailing during a previous representative period, account being taken in so far as practicable of any special factors which may have affected or may be affecting the trade in the product concerned.

Article 20. Restrictions to Restore Equilibrium in the Balance of Payments

1. Notwithstanding the provisions of Article 19, any Member confronted with an adverse balance of international payments may, as an aid to the restoration of equilibrium therein, impose or maintain restrictions on the quantity or value of merchandise permitted to be imported. The imposition or maintenance of restrictions under this paragraph shall conform to the conditions and requirements set forth in paragraphs 2 or 3 of this Article, as the case may be.

2. Any Member which considers such action necessary to restore equilibrium in its balance of international payments shall be entitled to impose or maintain quantitative import restrictions under paragraph 1 of this Article until December 31, 1949: *Provided*, That any Member availing itself of the privileges of this paragraph shall consult, through the Organization, with the other Members affected with a view to assuring that the effects of such restrictions on their commercial interests are minimized to the fullest possible extent compatible with the safeguarding of the balance of payments of the Member imposing the restrictions. Any Member still maintaining such restrictions on December 31, 1949 shall complete arrangements so that no such restrictions shall remain in force on or after the expiration of six months from that date.

3. Notwithstanding the provisions of paragraph 2 of this Article, any Member shall be entitled to impose balance-of-payments restrictions, whether during or after the transitional period provided for in paragraph 2 of this Article, subject to the following conditions:

a. No Member shall impose such restrictions under this paragraph unless such action is necessary (*i*) to arrest a long-continuing or large deficit in the Member's balance of payments, or (*ii*) in the case of a Member with very low monetary reserves, to forestall a large deficit in the Member's balance of payments. Such restrictions under (*i*) shall be progressively relaxed with the reduction of the deficit in the Member's balance of payments and shall be completely removed upon the elimination of the deficit in the Member's balance of payments. Such restrictions under (*ii*) shall be progressively relaxed with improvement in the Member's monetary reserves, and shall be completely removed with the attainment by the Member of adequate monetary reserves. The deficit or surplus in a Member's balance of payments shall be understood to mean its deficit or surplus on current account, as defined in Article XIX(i) of the Articles of Agreement of the International Monetary Fund. A Member's monetary reserves shall

be understood to mean its reserves as defined in Article XIX(e) of the Articles of Agreement of the International Monetary Fund.

b. Any Member imposing new restrictions, or continuing beyond the transitional period restrictions imposed pursuant to paragraph 2 of this Article, shall enter into consultation with the Organization within thirty days after the imposition of new restrictions, or after the expiration of the transitional period, as the case may be. The Organization shall seek consultation with the International Monetary Fund in reviewing, in the light of the criteria set forth in (*a*) above, the balance of payments or monetary reserves of any Member availing itself of the privileges of this paragraph.

c. Any Member which considers that any other Member is applying import restrictions under this paragraph contrary to the letter or spirit of the undertakings in this Charter with respect to such restrictions, or in a manner tending to impair the commercial relations between the two Members, shall be entitled to bring the matter before the Organization for discussion, and the Member imposing the restrictions shall undertake in these circumstances to enter into discussions with a view to a mutually satisfactory settlement of the matter. The Organization may determine that such restrictions are not in harmony with the principles set forth in this paragraph and in the event appropriate action is not taken within thirty days after such determination any Member which considers that such restrictions have impaired its commercial relations with the Member imposing the restrictions shall be free, within sixty days after the date of such determination, to suspend on sixty days' written notice to the Organization the application to the trade of such Member of any of the obligations or concessions under this Chapter the suspension of which the Organization does not recommend against.

4. Restrictions maintained or imposed under this Article by any Member shall be so administered as to avoid unnecessary dislocation to the trade of other Members having an interest in the exportation of particular products. To this end the Member maintaining or imposing such restrictions shall apply them to all imported products in a manner as nearly uniform as practicable and shall in no event apply them in such a manner as would prevent the continuous importation in minimum commercial quantities of any product (*a*) if imports of the product are supplied principally or in important part by any other Member or Members, or (*b*) if imports of the product are important to the maintenance of the economy of any other Member engaged in exporting the product to the Member maintaining or imposing such restrictions.

Article 21. Nondiscriminatory Administration of Quantitative Restrictions

1. No prohibition or restriction shall be imposed by any Member pursuant to this Section 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, respectively, is similarly prohibited or restricted. In order to facilitate observation of the operation of the provisions of this paragraph in so far as they relate to import restrictions, Members undertake that in the application of such restrictions they will employ the use of quotas, and will avoid the use of licensing or other non-quota methods of restriction, to the fullest practicable extent.

2. In the case of import restrictions imposed in the form of quotas, the Member imposing such restrictions shall give public notice of the total quantity or value of the product or products permitted to be imported during a specified future period, and of any change in such quantity or value. If any Member imposing such quotas allots a share of the total quantity or value to any other country, it shall allot to the other Member countries having an important interest in the trade in the product with respect to which an allotment has been made, shares based upon the proportions of the total quantity or value supplied by such Member countries during a previous representative period, account being taken in so far as practicable of any special factors which may have affected or which may be affecting the trade in that product. No conditions or formalities shall be imposed which would prevent any Member country from fully utilizing the share of any such total quantity or value which has been allotted to it. The provisions of this paragraph shall also apply to any tariff quota established or maintained by any Member.

3. In the case of import restrictions for which quota determinations have not been made, the Member imposing the restrictions shall provide, upon the request of any other Member having an interest in the trade in the product concerned, all relevant information as to the administration of the restriction, including information as to the import licenses granted over a past recent period and the distribution of such licenses. Restrictions under this paragraph shall in no event be applied by sources of supply and no import license or permit utilized in connection with such restrictions shall require or provide that the license or permit be utilized for the importation of the product concerned from a particular country.

4. With regard to restrictions imposed in accordance with paragraph 2 of this Article or under paragraph 2(*e*) of Article 19, 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 imposing the restriction: *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 regarding the need for an adjustment of the base period selected or for the reappraisal of the special factors involved.

Article 22. Exceptions From Rule of Nondiscrimination

1. Members which are members of the International Monetary Fund shall not be precluded by this Section from applying quantitative import restrictions (*a*) having equivalent effect to any exchange restrictions which the Member is authorized to impose in conformity with Article VII of the Articles of Agreement of the International Monetary Fund, or (*b*) essential to the maintenance, under Article XX, Section 4(*g*) of that Agreement, of the common par value of the currencies of territories having a common quota in the Fund.

2. The provisions of paragraphs 1, 2 and 3 of Article 21 shall not apply (*a*) in cases in which their application would have the effect of preventing the Member imposing the restrictions referred to in those paragraphs from utilizing, for the purchase of needed imports, inconvertible currencies accumulated up to December 31, 1948 which are inconvertible at the time of their use, or (*b*) to prohibitions or restrictions imposed under subparagraphs 2(*a*)(*i*) or 2(*d*) of Article 19.

SECTION D. EXCHANGE CONTROL

Article 23. Elimination of Exchange Restrictions in Relation to Current Commodity Transactions

1. In order to avoid the imposition of trade restrictions and discriminations through exchange techniques, the Members agree that they will impose no restrictions on the making of payments and transfers for such current international transactions as consist of payments due in connection with the importation of any product: *Provided*, That this obligation shall not prevent any Member from imposing such restrictions on transactions with non-Members unless the Organization finds that such restrictions prejudice the interests of other Members.

2. The obligations of paragraph 1 of this Article shall not prevent any Member which is a member of the International Monetary Fund from imposing restrictions in conformity with the Articles of Agreement of the International Monetary Fund: *Provided*, That no Member of the Organization shall invoke or continue to invoke the provisions of Article XIV, Section 2, of the Articles of Agreement of the International Monetary Fund for the purpose of imposing restrictions on the making of payments and transfers in connection with the importation of any product of any other Member, except such exchange restrictions as complement and correspond to quantitative restrictions authorized by, and meeting the requirements set forth in, Articles 20, 21 and 22 of this Charter: *And provided further*, That the provisions of this paragraph shall not be construed to authorize any Member of the Organization to impose restrictions on transactions with any other Member by virtue of Article XI, Section 2, of the Articles of Agreement of the International Monetary Fund.

3. The Organization shall respect the authority and jurisdiction in respect of exchange matters assigned to the International Monetary Fund by the Articles of Agreement of the International Monetary Fund and shall seek to cooperate with the Fund to the end that the Fund and the Organization may pursue a common 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.

4. This Article shall become effective upon the expiration of six months from the day on which this Charter enters into force.

Article 24. Nondiscriminatory Administration of Exchange Restrictions

Members maintaining or establishing exchange restrictions shall accord to the trade of other Members the equality of treatment with respect to all aspects of such restrictions required of members of the Fund under the provisions of the Articles of Agreement of the International Monetary Fund or, in cases in which the approval of the Fund is required, the equality of treatment prescribed by the Fund after consultation with the Organization.

Section E. Subsidies

Article 25. General Undertaking Regarding Subsidies—Elimination of Export Subsidies—Exceptions

1. Except as provided in paragraphs 2 and 3 of this Article, if any Member establishes or maintains any subsidy, including any form of

income or price support, to the domestic producers of any product, which operates to increase the exports of such product from, or to reduce the imports of such product into, the territory of the Member. such Member shall notify the Organization in writing as to the extent and nature of the subsidization, as to the anticipated effect of the subsidization on the quantity of the product imported into and exported from the territory of the Member, and as to the conditions making the subsidization necessary. In any case in which it is determined that serious injury to the trade of any Member is caused or threatened by the operation of any such subsidization, the Member granting such subsidization shall undertake to discuss with the other Member or Members concerned, or with the Organization, the possibility of limiting the subsidization.

2. Except as provided in paragraph 3 of this Article, no Member shall grant, directly or indirectly, any subsidy on the exportation of any product, or establish or maintain any other system which results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, due allowance being made for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability. The preceding sentence shall not be construed to prevent any Member from exempting exported products from duties or taxes imposed in respect of like products when consumed domestically or from remitting such duties or taxes which have accrued. 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 a notice in writing to that effect, accompanied by an explanatory statement and an indication as to the extension of the period desired. It shall then be determined whether such period should be extended for the Member desiring an extension in respect of the product or products concerned.

3. *a.* In any case in which it is determined that a specified product is, or is likely to become, in burdensome world surplus, the Members which are substantially interested in the production, trade or consumption of such product shall, upon the invitation of the Organization or of any such Member, consult with each other with a view to the adoption of measures to increase consumption and to reduce production through the diversion of resources from uneconomic production, or

with a view to seeking, if necessary, the conclusion of an intergovernmental commodity agreement in accordance with the provisions of Chapter VI of this Charter.

b. If it is determined that the measures provided for in subparagraph (*a*) of this paragraph have not succeeded, 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 product concerned, the requirements of paragraphs 1 and 2 of this Article shall cease to apply in respect of such product as of the effective date of such determination and shall not be reapplied in respect of such product until a date determined in accordance with procedures approved by the Organization.

c. Notwithstanding the provisions of paragraphs 2 and 3(*b*) of this Article, 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 in so far 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 Member 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 regarding the need for an adjustment of the base period selected or for the reappraisal of the special factors involved.

4. Any determination required or appropriate to the operation of this Article shall be made under procedures established by the Organization in accordance with paragraph 6 of Article 55.

Section F. State Trading

Article 26. Nondiscriminatory Administration of State-Trading Enterprises

1. If any Member establishes or maintains a state enterprise, wherever located, which imports, exports, purchases, sells, distributes or produces any product or service, or if any Member grants exclusive or special privileges, formally or in effect, to any enterprise to import, export, purchase, sell, distribute or produce any product or service, the commerce of each of the other Members shall be accorded nondiscriminatory treatment, as compared with the treatment 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 or service. To this end such enterprise shall, in making its external purchases or sales of any product or service, be influenced solely by commercial considerations, such as price, quality, marketability, transportation and terms of purchase or sale. The Member maintaining such state enterprise, or granting exclusive or special privileges to an enterprise, shall, upon the request of any other Member having an interest in the trade in the product or service concerned, or upon the request of the Organization, provide such specific and detailed information as will make possible a determination as to whether the operations of the enterprise are being conducted in accordance with the requirements of this paragraph.

2. For the purposes of this Article, a state enterprise shall be understood to be any enterprise over whose operations a Member government exercises, directly or indirectly, a substantial measure of control.

Article 27. Expansion of Trade by State Monopolies of Individual Products

If any Member, other than a Member subject to the provisions of Article 28, establishes, maintains or authorizes, formally or in effect, a complete or substantially complete monopoly of the importation or exportation of any product, such Member shall enter into negotiations with other Members, in the manner provided for in respect of tariffs under Article 18, with regard to (*a*) in the case of an import monopoly, the maximum margin by which the price for an imported product charged by the monopoly in the home market may exceed the price at which such product is offered for sale to the monopoly by foreign suppliers, or (*b*) in the case of an export monopoly, the maximum margin by which the price for a product offered for sale by the monopoly to foreign purchasers may exceed the price for such product charged in the home market; after due allowance in either case for internal taxes and for transportation, distribution and other expenses incident to purchase, sale or further processing. Members newly establishing any such monopoly in respect of any product shall not create a margin as defined above greater than the maximum rate of import duty (or, in the case of an export monopoly, greater than the maximum rate of export duty) which may have been negotiated in regard to that product pursuant to Article 18. With regard to any monopolized product in respect of which a maximum margin has been established pursuant to this Article, the monopoly shall, subject to the provisions of Section C of this Chapter, import and offer for

sale (or, in the case of an export monopoly, offer for sale to foreign purchasers) such quantities of the product as will be sufficient to satisfy the full domestic demand for the imported product (or, in the case of an export monopoly, the full foreign demand for the product) at the prices charged under such maximum margins.

Article 28. Expansion of Trade by Complete State Monopolies of Import Trade

Any Member establishing or maintaining a complete or substantially complete monopoly of its import trade shall promote the expansion of its foreign trade with the other Members in consonance with the purposes of this Charter. To this end such Member shall negotiate with the other Members an arrangement under which, in conjunction with the granting of tariff concessions by such other Members, and in consideration of the other benefits of this Chapter, it shall undertake to import in the aggregate over a period products of the other Members valued at not less than an amount to be agreed upon. This purchase arrangement shall be subject to periodic adjustment.

SECTION G. EMERGENCY PROVISIONS—CONSULTATION—NULLIFICATION OR IMPAIRMENT

Article 29. Emergency Action on Imports of Particular Products

1. If, as a result of unforeseen developments and of the effect of the obligations incurred under this Chapter, including the tariff concessions granted pursuant to Article 18, 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 similar products, the Member shall be free to withdraw the concession, or suspend the obligation, in respect of such product, in whole or in part, or to 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 the other Members having a substantial interest as exporters of the product concerned, an opportunity to consult with it in respect of the proposed action. If agreement among the interested Members with respect to the proposed action is not reached, the Member which proposes to take the action shall, nevertheless, be free to do so, and if such action is taken the other affected Members shall then be free, within sixty days after such action is taken, to suspend on sixty days' written notice to the Organization the application to

the trade of the Member taking such action, of any of the obligations or concessions under this Chapter the suspension of which the Organization does not recommend against.

Article 30. Consultation—Nullification or Impairment

Each Member will accord sympathetic consideration to, and will 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, quantitative and exchange regulations, 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. Moreover, if any Member should consider that any measure adopted by any other Member, whether or not it conflicts with the terms of this Chapter, has the effect of nullifying or impairing any object of this Chapter, such other Member shall give sympathetic consideration to such written representations or proposals as may be made with a view to effecting a mutually satisfactory adjustment of the matter. If no such adjustment can be effected, either Member shall be free to refer the matter to the Organization, which shall investigate the matter and make appropriate recommendations to the Members concerned. The Organization, if it considers the case serious enough to justify such action, may determine that the complaining Member is entitled to suspend the application to the other Member of specified obligations or concessions under this Chapter, and if such obligations or concessions are in fact suspended, such other Member shall then be free, within sixty days after such action is taken, to withdraw from the Organization on sixty days' written notice to the Organization.

SECTION H. RELATIONS WITH NON-MEMBERS

Article 31. Contractual Relations With Non-Members—Treatment of Trade of Non-Members

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 under 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.

Section I. General Exceptions

Article 32. General Exceptions to Chapter IV

Nothing in Chapter IV of this Charter shall be construed to prevent the adoption or enforcement by any Member of measures

a. necessary to protect public morals;

b. necessary to protect human, animal or plant life or health;

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 Member;

f. relating to the importation or exportation of gold or silver;

g. necessary to induce compliance with laws or regulations which are not inconsistent with the provisions of Chapter IV, such as those relating to customs enforcement, deceptive practices, and the protection of patents, trade-marks and copyrights;

h. relating to prison-made goods;

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; or

l. imposed in accordance with a determination or recommendation of the Organization formulated under paragraphs 2, 6 or 7 of Article 55.

SECTION J. TERRITORIAL APPLICATION

Article 33. Territorial Application of Chapter IV—Customs Unions—Frontier Traffic

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

2. The provisions of Chapter IV shall not be construed to prevent

a. advantages accorded by any Member country to adjacent countries in order to facilitate frontier traffic; or

b. the union for customs purposes of any customs territory of any Member country and any other customs territory: *Provided*, That the duties and other regulations of commerce imposed by any such union in respect of trade with other Member countries 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 any union described in paragraph 2(*b*) of this Article shall consult with the Organization and shall make available to the Organization 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. For the purposes of this Article a customs territory shall be understood to mean any area within which separate tariffs or other regulations of commerce are maintained with respect to a substantial part of the trade of such area. A union of customs territories for customs purposes 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 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 V. RESTRICTIVE BUSINESS PRACTICES

Article 34. Policy Toward Restrictive Business Practices

1. Members agree to take appropriate individual and collective measures to prevent business practices among commercial enterprises

which restrain competition, restrict access to markets or foster monopolistic control in international trade, and which thus have the effect of frustrating the purpose of the Organization to promote expansion of production and trade and the maintenance in all countries of high levels of real income. The term "commercial enterprises" as used in this Chapter shall mean all persons and entities conducting business, including such entities in which there is a government interest as well as agencies of government conducting trade.

2. Without limiting the generality of paragraph 1, Members agree that among the practices which shall be presumed, unless shown to the contrary in a specific case, to have the effect specified in that paragraph are combinations, agreements or other arrangements which

a. fix prices or terms or conditions to be observed in dealing with others in the purchase or sale of any product or service;

b. exclude enterprises from any territorial market or field of business activity, allocate or divide any territorial market or field of business activity, allocate customers, or fix sales or purchase quotas, except as such arrangements are only a part of regular marketing arrangements between a particular enterprise and its distributors with respect to its own products and are not designed to reduce competition between that enterprise and its competitors;

c. boycott or discriminate against particular enterprises;

d. limit production or fix production quotas;

e. suppress technology or invention, whether patented or unpatented;

f. extend the use of rights under patents, trade-marks or copyrights to matters not properly within the scope, or to products or services which are not the immediate subjects, of the authorized grant.

Article 35. Procedure With Respect to Complaints

In order to implement Article 34, the Organization shall:

1. Receive and consider written complaints from any Member that a particular practice or group of practices has the effect described in paragraph 1 of Article 34.

2. Receive and consider similar complaints from persons or business entities or organizations representing them: *Provided*, That if any Member has established procedures for the filing of complaints by persons, business entities or organizations under its jurisdiction, such complaints shall have conformed to such procedures.

3. Prescribe minimum information to be included in complaints received under paragraphs 1 and 2 of this Article; notify Members of complaints received; and in its discretion call upon the complain-

ant or any Member to provide further information relevant to such complaints.

4. When it deems that a complaint deserves further examination, receive pertinent testimony and request other data, conduct appropriate hearings, review all information and determine whether the questioned practices exist and whether they have the effect described in paragraph 1 of Article 34.

5. When it finds that a particular practice or group of practices exists and has the effect described in paragraph 1 of Article 34, make recommendations to the Members concerned for appropriate remedial measures, including but not limited to abrogation and termination of agreements and arrangements, dissolutions, reorganizations, business divestitures, and licensing of patents, to be implemented in accordance with their respective laws and procedures.

6. Request reports from Members as to their actions in implementing its recommendations.

7. Prepare and publish reports concerning complaints, findings thereon, recommendations, and actions taken on such recommendations.

8. Arrange special consultative conferences among particular Members relative to particular complaints, when deemed necessary, and participate in such conferences.

9. Assist in arranging consultations, as requested by Members, as provided in paragraph 4 of Article 37, and participate in such consultations.

Article 36. Studies and Conferences Relating to Restrictive Business Practices

1. The Organization is authorized to request information from Members and to conduct studies, either on its own initiative or at the request of any Member, the United Nations or specialized agency of the United Nations, relating to business practices which may restrain competition, restrict access to markets or foster monopolistic control in international trade; or relating to international conventions or national laws and procedures designed to carry out the objectives of Article 34 or to those which may affect such objectives, such as conventions, laws or procedures concerning incorporation, company registration, investments, securities, prices, markets, fair trade practices, trade-marks, copyrights, patents and the exchange and development of technology; and, where appropriate, to make recommendations for action by the Members.

2. The Organization is authorized to call general consultative conferences of Members and to carry out such additional functions,

within the scope of this Chapter, as may from time to time be assigned to it.

Article 37. Obligations of Members

In order to implement the preceding Articles in this Chapter, each Member undertakes to:

1. Transmit to the Organization, upon its request and as promptly as possible, information called for by the Organization pursuant to paragraph 3 of Article 35 and such other information as the Member may deem pertinent. To this end, each Member shall carry on such investigations within its own jurisdiction as may be necessary for the collection and compilation of such information.

2. Furnish such information and data as may be necessary in accordance with paragraph 4 of Article 35.

3. Consult, upon the request of the Organization in accordance with paragraph 8 of Article 35, with respect to activities which are the subject of complaints filed with the Organization.

4. Notify the Organization of consultations to be held with another Member for the purpose of dealing with particular restrictive business practices, in order that the Organization may assist in arranging such consultations and participate in them pursuant to paragraph 9 of Article 35.

5. Take action, after recommendation by the Organization, to terminate and prevent the recurrence of a particular restrictive business practice or group of practices which has been found by the Organization to have the effect described in paragraph 1 of Article 34. These measures will be taken in accordance with the particular system of law and economic organization of the Member concerned.

6. Report as requested by the Organization under paragraph 6 of Article 35 upon any action taken independently or in concert with other Members in implementing the recommendations made by the Organization pursuant to paragraph 5 of Article 35.

7. Furnish, to the extent feasible, information requested by the Organization in its conduct of studies authorized by paragraph 1 of Article 36.

8. Participate in conferences sponsored by the Organization in furtherance of the purposes of this Chapter.

Article 38. Supplementary Enforcement Arrangements

1. Members may, by mutual accord, cooperate 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 such cooperative actions shall notify the Organization.

Article 39. Continued Effectiveness of Domestic Measures Against Restrictive Business Practices

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

Article 40. Exceptions to Provisions of Chapter V

1. The undertakings expressed in Chapter V shall not apply to

a. intergovernmental commodity agreements meeting the requirements of Chapter VI;

b. the international agreements excepted in Article 49; or

c. agreements or understandings concerning railway transportation, aviation, shipping and telecommunications services.

2. Notwithstanding the foregoing, the Organization may in its discretion make recommendations to Members and to appropriate international agencies concerning any features of the agreements referred to in (*b*) and (*c*) of paragraph 1 which may interfere with the achievement of the purposes of the Organization.

CHAPTER VI. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

Article 41. General Statement Regarding Intergovernmental Commodity Arrangements

The Members recognize that in the relationship between production and consumption of some primary commodities there may arise special difficulties different in character from those which generally exist in the case of manufactured goods and that these special difficulties, if serious, may have such widespread repercussions as to jeopardize the effectuation of the general policy of economic expansion.

Article 42. Special Commodity Studies

1. Members substantially interested in the production, consumption or trade of a particular commodity shall be entitled, if they consider that special difficulties exist or are expected to arise regarding a commodity, to ask that a study of that commodity be made, and the Or-

ganization, if it finds that these representations are well founded, shall invite the Members principally interested in the production, consumption or trade of that commodity, and may invite non-Members having a similar interest, to appoint representatives to a Study Group to make a study of the commodity.

2. 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 for 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.

Article 43. Commodity Conferences

If the Organization concludes that measures not involving the regulation of production, trade or prices are unlikely to operate quickly enough in solving the problem, it may convene an intergovernmental conference for the purpose of framing an intergovernmental commodity agreement for the commodity concerned, in conformity with the principles set forth in Article 45.

Article 44. Objectives of Intergovernmental Commodity Agreements

The Members agree that the regulation of production, trade or prices through intergovernmental commodity agreements is justified in the circumstances stated in Article 43 to achieve the following objectives:

1. To enable countries to find solutions to special commodity difficulties without resorting to unilateral action that tends to shift the burden of their problems to other countries.

2. To prevent or alleviate the serious economic problems which may arise when, owing to the difficulties of finding alternative employment, production adjustments cannot be effected by the free play of market forces as rapidly as the circumstances require.

3. To provide, during a transitional period, a framework for the development and consideration 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.

Article 45. Principles Governing the Institution of Intergovernmental Commodity Agreements

Members undertake to adhere to the following principles governing the institution of intergovernmental commodity agreements involving the regulation of production, trade or prices:

1. Any Member having a substantial interest in the production, consumption or trade of any commodity for which an intergovernmental commodity agreement is proposed shall be entitled to participate in the consideration of the proposed agreement. The Organization may invite the participation of non-Member countries having a similar interest.

2. Members agree not to enter into intergovernmental commodity agreements involving the regulation of production, trade or prices, except after

a. investigation by the Study Group of the root causes of the problem which gave rise to the proposal;

b. determination, under procedures established by the Organization in accordance with paragraph 6 of Article 55, either

1) that a burdensome surplus of the product concerned has developed or is developing in international trade and such burdensome surplus would, in the absence of specific governmental action to prevent it, be accompanied by widespread distress to small producers accounting for a substantial portion of the total output and that these conditions cannot be corrected by the normal play of competitive forces because, in the case of the product concerned, a substantial reduction of price leads neither to a significant increase in consumption nor to a significant decrease in production; or

2) that widespread unemployment, unrelated to general business conditions, has developed or is developing in respect of the industry concerned and that such unemployment cannot be corrected by the normal play of competitive forces rapidly enough to prevent widespread and undue hardship to workers because, in the case of the industry concerned, (*i*) a substantial reduction of price does not lead to a significant increase in consumption but leads, instead, to the reduction of employment, and (*ii*) the resulting unemployment cannot be remedied by normal reemployment processes;

c. formulation and adoption by Members of a program of economic adjustment believed to be adequate to insure substantial progress toward solution of the problem within the time limits of the agreement.

8. Intergovernmental commodity agreements involving the regulation of production, trade or prices in respect of other than primary products shall not be resorted to unless the Organization finds that exceptional circumstances justify such action. Such agreements shall be subject to the principles set forth in this Chapter, and, in addition, to any other requirements which the Organization may establish.

Article 46. Principles and Requirements of Intergovernmental Commodity Agreements

Members undertake to adhere to the following principles and requirements governing the operation of intergovernmental commodity agreements:

1. Such agreements shall be open initially to participation by any Member on terms no less favorable than those accorded to any other country party thereto and thereafter upon such terms as may be approved by the Organization.

2. Such agreements shall provide for adequate representation of Members substantially interested in the importation or consumption of the commodity.

3. In such agreements countries which are largely dependent for consumption on imports of the commodity involved shall, in determinations made relating to the regulation of prices, trade, stocks, production or other substantive matters, have together a voice equal to that of those largely interested in obtaining export markets for the product.

4. In order to minimize the need for production restriction such agreements shall provide, where practicable, for measures designed to expand world consumption of the commodity, consideration being given to the possible effect on competing products.

5. Such agreements shall, with due regard to the transitional need for preventing serious economic and social dislocation, make appropriate provision to afford increasing opportunities for satisfying world requirements from sources from which such requirements can be supplied most effectively.

6. Under such agreements the treatment with respect to the imports or exports of the commodity accorded by any participating country to any Member shall not, unless otherwise agreed by the Organization, be less favorable than that accorded to any other country.

7. Such agreements shall be designed to assure the availability of supplies adequate at all times for world consumption requirements at reasonable prices.

8. Such agreements shall contain provision for administration by Commodity Councils set up in accordance with the provisions of Article 47, except that in the case of existing agreements this requirement may be waived by the Organization.

9. Such agreements shall not remain initially in effect for more than five years. The renewal of an agreement shall be subject to the principles governing new agreements set forth in Article 45. At the end of each five years of the continuance of such an agreement the Organization shall prepare and publish a review of the operation of the agreement in the light of the principles set forth in Article 45. If the operation is found to have failed substantially to conform to these principles, and particularly if it is found not to have made substantial progress toward a solution of the underlying commodity problem, the Organization shall provide for termination of the agreement or for revision believed adequate to make it effective for that purpose.

10. Members agree that full publicity shall be given to any intergovernmental commodity agreement proposed or concluded, to the statements of considerations and objectives advanced by the proposing Members, to the operation of the agreement, and to the nature and development of measures adopted to correct the underlying situation which gave rise to the agreement.

Article 47. Commodity Councils

1. A Commodity Council shall be established under each intergovernmental commodity agreement involving the regulation of production, trade or prices of that commodity.

2. The voting membership of each Commodity Council shall consist of the representatives of the countries participating in the intergovernmental commodity agreement concerned, and voting power shall be determined in such a way that the participating countries which are largely dependent for consumption on imports of the commodity involved shall, in determinations made relating to the regulation of prices, trade, stocks, production or other substantive matters, have together a voice equal to that of those largely interested in obtaining export markets for the product.

3. Each Commodity Council shall, subject to the approval of the Commodity Commission, adopt such rules of procedure and regulations regarding its activities as it may deem appropriate.

4. Each Commodity Council shall have a non-voting Chairman provided by the Commodity Commission.

5. Each Commodity Council shall make periodic reports to the Commodity Commission as to the operation of the intergovernmental

commodity agreement which it administers, and shall make such other special reports as the Commission may specify or as the Council considers to be of value to the Commission.

6. The Secretariat of each Commodity Council shall be provided by the Commodity Commission from the Secretariat of the Organization.

Article 48. Additional Obligations of Members in Respect of Intergovernmental Commodity Agreements

Members undertake to transmit to the Organization the full text of each intergovernmental commodity agreement in which they are participating at the time of the coming into force of their obligations under this Charter. Members also agree to transmit to the Organization appropriate information regarding the formulation, provisions and operation of such agreements. Members agree to conform with the decisions made by the Conference, upon the recommendation of the Commodity Commission, regarding their continued participation in any such intergovernmental commodity agreement which, after review by the Organization, shall have been found to be inconsistent with the principles of this Charter.

Article 49. Exceptions to Provisions Relating to Intergovernmental Commodity Agreements

1. The provisions of Chapter VI are not designed to cover those provisions of intergovernmental commodity agreements which appropriately relate to the protection of public morals; the protection of human, animal or plant life or health; the conservation of reserves of exhaustible natural resources; the equitable distribution of commodities in short supply; or in general to intergovernmental commodity agreements not regulating production, trade or prices: *Provided*, That such agreements are not used to accomplish results inconsistent with the objectives of Chapter V or Chapter VI. Members agree not to participate in such agreements if they involve the regulation of production, trade or prices unless they are authorized or provided for by a multilateral convention subscribed to by a majority of the nations affected, or unless operated under the Organization.

2. None of the foregoing provisions of Chapter VI is to be interpreted as applying to agreements 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 time of war or other emergency in international relations, to the protection of the essential security interests of a Member.

CHAPTER VII. ORGANIZATION

SECTION A. FUNCTIONS

Article 60. Functions of the Organization

It shall be the function of the Organization:

1. To collect, analyze and publish information relating to international trade, including information relating to commercial policy, business practices and commodity problems, and to industrial and general economic development.

2. To provide technical assistance and advice to Members and to other international organizations, including such assistance and advice as may be appropriate in connection with specific projects of industrialization or other economic development.

3. To consult with, and to make recommendations and reports to, Members regarding any matter relating to the purposes of the Organization or the operation of this Charter, including the following:

a. Recommendations or determinations relating to the discharge of the responsibilities of the Organization under Chapter IV.

b. Recommendations as to measures for implementing the objectives with regard to restrictive business practices, set forth in Chapter V.

c. Recommendations regarding the application to commodity arrangements under consideration by Members of the principles governing commodity arrangements set forth in Chapter VI; and recommendations initiating proposals for new commodity arrangements, or proposing such modifications, including termination, of commodity arrangements already concluded, as may be deemed appropriate under the commodity principles or in the general interest.

d. Recommendations as to measures for implementing the objectives of the Organization in encouraging and assisting the industrial and general economic development of Member countries.

4. To consult with Members regarding disputes growing out of the provisions of this Charter and to provide a mechanism for the settlement of such disputes.

5. To make recommendations for international agreements 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 agreements on the treatment of foreign nationals and enterprises, on the treatment of commercial travelers, on commercial arbitration, and on the avoidance of double taxation.

6. To cooperate with the United Nations and with other specialized international organizations in the attainment of the economic and social objectives of the United Nations and in the maintenance or restoration of international peace and security.

7. Generally to advise and to make recommendations to Members and other international organizations, and to perform any other function appropriate to the purposes of the Organization.

Section B. Structure

Article 51. Structure of the Organization

The Organization shall have as its principal organs: a Conference, an Executive Board, a Commission on Commercial Policy, a Commission on Business Practices, a Commodity Commission and a Secretariat.

Section C. The Conference

Article 52. Conference—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 on the Conference.

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

Article 53. Conference—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.

Article 54. Conference—Sessions, Procedure and Officers

1. The Conference shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Director General of the Organization 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 55. Conference—Powers and Duties

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

2. The Conference may, by a vote of two thirds of its Members, determine criteria and set up procedures, for waiving, in exceptional circumstances, obligations of Members undertaken pursuant to Chapter IV of this Charter.

3. The Conference may delegate to the Executive Board authority to exercise or perform any of the powers and duties of the Conference, except such specific powers and duties as are expressly conferred or imposed upon the Conference under the provisions of Chapters II and VII.

4. The Conference shall approve the budget of the Organization and shall apportion the expenses of the Organization among the Members.

5. The Conference shall elect the members of the Executive Board, and on the recommendation of the Executive Board, shall appoint the Director General of the Organization.

6. The Conference shall establish procedures for making the determinations provided for in Article 25 and in paragraph 2(*b*) of Article 45 whereby any such determinations shall be made through the Organization by consultation among the Members having an important interest in the trade in the product concerned.

7. The Conference shall establish procedures for making the determinations and recommendations provided for in paragraph 3(*o*) of Article 20; paragraph 2 of Article 29; and Article 30.

8. The Conference may, by two-thirds majority of the votes cast, adopt the standards, nomenclature, terms and forms described in paragraph 7 of Article 16.

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

Article 56. Interim Tariff Committee

1. There shall be an Interim Tariff Committee which shall act temporarily on behalf of the Organization in the making of recommendations and determinations pursuant to paragraph 3 of Article 18.

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—.[1] Any other

[1] This Agreement refers to the proposed arrangement for the concerted reduction of tariffs and trade barriers among the countries invited by the United States to enter into negotiations for this purpose. It is contemplated that the Agreement would contain schedules of tariff concessions and would incorporate certain of the provisions of Chapter IV of the Charter (e. g., the provisions relating to most-favored-nation treatment, to national treatment on internal taxes and regulations, to quantitative restrictions, etc.).

Member of the Organization shall be entitled to 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 18 comparable in scope or effect to those completed by the original members of the Committee. When the number of Members of the Organization which are members of the Committee shall constitute two thirds of the total number of Members of the Organization, the Committee shall terminate and its functions shall be transferred to the Conference.

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

4. Decisions of the Committee shall be taken by a majority of the members present and voting.

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

Section D. The Executive Board

Article 57. Executive Board—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 of this Article, one third of the membership of the Executive Board shall be elected each year for a term of three years. A retiring member shall be eligible for immediate reelection.

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 representative.

Article 58. Executive Board—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 the members present and voting.

Article 59. Executive Board—Sessions, Procedure and Officers

1. The Executive Board shall meet as required in accordance with its rules, which shall include provision for convening on the request of a majority of its members.

2. The Executive Board shall adopt its own rules of procedure. It shall annually elect its Chairman and other officers.

Article 60. Executive Board—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 by the Conference. It shall review the 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 as it relates to industrialization and general economic development.

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

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

4. The Executive Board may refer to the Commissions such questions as it may deem appropriate.

SECTION E. THE COMMISSIONS

Article 61. Establishment of Commissions

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. These Commissions shall be responsible to the Executive Board.

Article 62. Composition and Procedure of Commissions

1. The Commissions shall be composed of persons appointed by the Executive Board who are qualified by training or experience to carry out the functions of the Commissions in accordance with the purposes of the Organization.

2. The number of members of each Commission and the conditions of office 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 adopt its own rules of procedure, subject to approval by the Executive Board.

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

5. As set forth more fully in Article 71, the Organization may make arrangements for representatives of other public international organizations having a special interest in the activities of any of the Com-

missions to participate in the work of such Commissions, pursuant to agreements with these organizations.

Article 63. General Functions of Commissions

The Commissions shall have the functions set forth in Articles 64, 65 and 66, and shall perform such other 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.

Article 64. Functions of Commission on Commercial Policy

The Commission on Commercial Policy shall have the following functions:

1. To investigate and to advise the Executive Board regarding the operation of treaties, agreements, practices and policies affecting international trade.

2. To investigate and to advise the Executive Board regarding the economic aspects of specific proposals involving the exercise by the Organization of the functions described in paragraph 3(*a*) of Article 50 and paragraph 2 of Article 55.

3. To investigate and to advise the Executive Board regarding the economic aspects of proposed customs unions.

4. To develop and to recommend to the Executive Board programs designed to further the objectives of the Organization in the general field of commercial policy, including cooperative projects of a technical nature in the field of commercial policy.

Article 65. Functions of Commission on Business Practices

The Commission on Business Practices shall have the following functions:

1. To receive and consider written complaints concerning restrictive business practices in international trade, as provided in paragraphs 1 and 2 of Article 35; to prescribe and call for information relative to such complaints and to notify Members of complaints received, in accordance with paragraph 3 of Article 35; to request data, conduct hearings and make determinations in accordance with paragraph 4 of Article 35 and on the basis thereof to refer to the Executive Board its recommendations for appropriate remedial measures, pursuant to paragraph 5 of Article 35; and to request reports from Members, and to prepare reports for publication by the Executive Board, in accordance with paragraphs 6 and 7 of Article 35.

2. To arrange special consultative conferences between particular Members and to assist in arranging consultations as requested by Members relative to particular complaints, as provided in paragraphs 8 and 9 of Article 35, and to make appropriate reports or recommendations to the Executive Board with reference to the results thereof.

3. To conduct studies relating to business practices which restrain competition, restrict access to markets or foster monopolistic control in international trade, or relating to international conventions or national laws and procedures designed to carry out the objectives of Article 34 or to those which may affect such objectives, pursuant to paragraph 1 of Article 36; and to make recommendations, when appropriate, to the Executive Board for action by Members.

4. To advise the Executive Board as to information, data, and other materials to be obtained from Members or other sources, required in the discharge of the duties and responsibilities of the Commission.

5. To facilitate intergovernmental arrangements for the international exchange, on a nondiscriminatory basis, of technological information not involving national security.

Article 66. Functions of Commodity Commission

The Commodity Commission shall have the following functions:

1. To investigate commodity problems and arrangements proposed for solving them.

2. To recommend to the Executive Board appropriate courses of action relating to commodity problems, including recommendations for the establishment of Study Groups for particular commodities. Such Study Groups shall be established, pursuant to paragraph 1 of Article 42, by the Executive Board, upon the recommendation of the Commodity Commission, for the purpose of investigating problems with respect to particular commodities. The Study Groups shall include, in addition to representatives of interested countries, one or more members of the Commodity Commission or other persons designated by the Commission.

3. To advise the Executive Board whether a particular commodity is in burdensome surplus, subject to such procedures as may be established under paragraph 6 of Article 55.

4. To recommend to the Executive Board whether an intergovernmental conference should be convened pursuant to Article 43.

5. To designate members of the Commission, or others, to participate in an advisory capacity in the formulation of intergovernmental commodity agreements.

6. To advise the Executive Board whether or not intergovernmental commodity agreements under consideration by Members conform to

the principles set forth in Chapter VI and to make recommendations to the Executive Board thereon.

7. To approve the rules of procedure governing the activities of each Commodity Council.

8. To designate the Chairman and provide the Secretary for any Commodity Council established to administer an intergovernmental commodity agreement.

9. To receive reports from Commodity Councils; to maintain continuous review of the operation of intergovernmental commodity agreements in the light of the terms of the agreements, the commodity principles in Chapter VI of this Charter, and the general welfare; to investigate such matters in this connection as it may deem appropriate; and to make recommendations to the Executive Board with regard thereto.

Section F. The Secretariat

Article 67. Composition of Secretariat

The Secretariat shall consist of a Director General, three or more Deputy Directors General, and such staff as may be required.

Article 68. Director General

1. The Director General shall be appointed by the Conference upon the recommendation of the Executive Board. His powers, duties, terms and conditions of office shall be in accordance with regulations approved by the Conference. He shall be eligible for reappointment. He shall be the chief administrative officer of the Organization, subject to the general supervision of the Executive Board.

2. The Director General or a Deputy Director General designated by him shall participate, without the right to vote, in all meetings of the Conference and of the Executive Board. The Director General shall have authority to initiate proposals for the consideration of any organ of the Organization. He shall make an annual report to the Conference and to the Executive Board on the work of the Organization and shall prepare the annual budget for submission to the Conference.

Article 69. Deputy Directors General

1. Deputy Directors General shall be appointed by the Director General in accordance with regulations approved by the Conference. They shall be eligible for reappointment.

2. Deputy Directors General shall be *ex officio* members, without the right to vote, respectively of the Commission on Commercial Policy, the Commission on Business Practices, and the Commodity Commission, and shall, respectively, have charge of the work of the Secretariat related to the activities of these Commissions.

Article 70. Secretariat Staff

1. The Director General shall appoint the staff of the Secretariat and fix its duties and terms and conditions of service. 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.

2. The conditions of service, such as the provisions governing qualifications, salary, tenure and retirement of members of the staff 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 specialized agencies which may be brought into relationship with the United Nations, as provided in Article 57 of the Charter of the United Nations.

SECTION G. MISCELLANEOUS PROVISIONS

Article 71. Relations With Other Organizations

1. The Organization shall be brought into relationship with the United Nations, as soon 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 an 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. Notwithstanding the provisions of Article 75, any changes in this Charter required under the agreement which do not involve new obligations by Members shall be effective on approval of the agreement by the Conference.

2. The Organization shall cooperate with other international organizations whose interests and activities are related to its purposes, with particular reference to the importance of food and agriculture in relation to the subjects dealt with in Chapter VI. Effective working relationships with such organizations, which may include the establishment of joint committees or provision for reciprocal representa-

tion at meetings, or such other measures as may be necessary to assure effective cooperation, may be established by the Director General. Formal arrangements for cooperation with such organizations may be entered into by the Executive Board.

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

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

Article 72. International Responsibilities of Personnel of Organization

The responsibilities of the members of the Commissions provided for in Article 61 of this Charter, of the Director General, of the Deputy Directors General and of the staff shall be exclusively international in character. These persons may be appointed without regard to their nationality. 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. Each Member of the Organization undertakes to respect the international character of the responsibilities of these persons, and not to seek to influence them in the discharge of their duties.

Article 73. Legal Capacity of Organization

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

Article 74. Privileges and Immunities of Organization

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

2. Representatives of the Members of the Organization and its officials shall similarly enjoy such privileges and immunities as are 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 75. Amendments to Charter

1. Amendments to this Charter shall become effective upon receiving the approval of the Conference by a vote of a two-thirds majority of its Members: *Provided*, That those amendments which involve fundamental alterations in the objectives of the Organization or new obligations by the Members shall take effect upon acceptance on the part of two thirds of the Members for each Member accepting the amendment and thereafter for each remaining Member on acceptance by it.

2. The Conference shall, by a two-thirds majority of the Members, adopt rules of procedure for carrying out the provisions of this Article.

Article 76. Interpretation and Settlement of Legal Questions

1. The English and French texts of this Charter shall be regarded as equally authoritative.

2. Any question or difference concerning the interpretation of this Charter shall be referred to the Executive Board for a ruling thereon. The Executive Board may require a preliminary report from any of the Commissions in such cases as it deems appropriate. Any ruling of the Executive Board shall, upon the request of any Member directly affected or, if the ruling is of general application, upon the request of any Member, be referred to the Conference. Any justiciable issue arising out of a ruling of the Conference with respect to the interpretation of subparagraphs (*c*), (*d*), (*e*) or (*k*) of Article 32 or of Paragraph 2 of Article 49 may be submitted by any Party to the dispute to the International Court of Justice, and any justiciable issue arising out of any other ruling of the Conference may, if the Conference consents, be submitted by any Party to the dispute to the International Court of Justice. The Members accept the jurisdiction of the Court in respect of any dispute submitted to the Court under this Article.

3. The Organization may, with the authorization of the General Assembly of the United Nations, refer any question concerning the interpretation of this Charter to the International Court of Justice with a request for an advisory opinion thereon.

4. The Director General, or his representative, may appear before the Court on behalf of the Organization in connection with any proceeding before that Court.

Article 77. Contributions of Members

Each Member undertakes to contribute promptly to the Organization its share of the Organization's expenses as apportioned by the Conference. The right of a Member to vote in the Conference shall automatically be suspended if such Member fails for two successive years to meet its financial obligations to the Organization: *Provided*, That the Conference may, in exceptional circumstances, waive such suspension.

Article 78. 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 Members of the United Nations of the date of deposit of each instrument of acceptance and of the date 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 acceptances pursuant to paragraph 2 of this Article shall equal 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 December 31, 194__, any of the governments which have made effective the General Agreement on Tariffs and Trade dated _____, 194__,[1] together with any

[1] See footnote to the reference to this Agreement in paragraph 2 of Article 50.

other governments which have already deposited their acceptances, may agree to bring this Charter into force among themselves in accordance with arrangements which they may agree upon.

4. Each government accepting this Charter does so in respect of all territory in which it has authority to make the provisions of this Charter effective.

Article 79. Withdrawal and Termination

1. Any Member of the Organization may give notice of withdrawal from the Organization at any time after the expiration of five years from the date of the entry into force of this Charter under the provisions of Article 78 by written notification addressed to the Secretary General of the United Nations, who will immediately inform all other Members of the Organization.

2. The withdrawal shall take effect one year from the date of the receipt of the notification by the Secretary General: *Provided*, That the notification may be withdrawn at any time during that period.

3. This Charter may be terminated at any time by agreement of three fourths of the Members of the Organization.

Exhibit IV-A

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

TABLE OF CONTENTS

Part I	Page
Introduction	748
Part II	
Chapter I. Achievement and Maintenance of High and Steadily Rising Levels of Effective Demand, Employment and Economic Activity	751
Section A. Relation of Employment to the Purposes of the Organization	751
Section B. The Maintenance of Domestic Employment	751
Section C. The Development of Domestic Resources and Productivity	751
Section D. Fair Labour Standards	752
Section E. The Removal of Maladjustments in the Balance of Payments	752
Section F. Safeguards for Countries Subject to External Deflationary Pressure	753
Section G. International Action to Maintain Employment	753
Section H. The Functions of the Economic and Social Council and the Specialized Agencies	754
Section I. The Form of the Employment Provisions	754
Chapter II. Industrial Development	755
Section A. Development of Economic Resources	755
Section B. Adaptation of Economies	756
Section C. Condition of Industrial Development	756
Section D. Provision of Capital	756
Section E. Supplies	757
Section F. Technology and Training	757
Section G. Mutual Responsibilities	757
Section H. Markets and Protection	758
Section I. Nature of Protection	758
Section J. Allocation of Functions	759
Chapter III. General Commercial Policy	760
Section A. General-Most-Favoured-Nation Treatment, Tariffs and Tariff Preferences, etc.	760
Section B. General Commercial Provisions (except Most-Favoured-Nation Treatment) Exceptions	765

Part II—Continued	Page
Chapter III—Continued	
Section C. Quantitative Restrictions and Exchange Control	765
Section D. Subsidies	773
Section E. State Trading	775
Section F. Relations with Non-Members	777
Chapter IV. Restrictive Business Practices	777
Section A. Policy Towards Restrictive Business Practices	777
Section B. Procedure with Respect to Complaints and Conferences	778
Section C. Studies Relating to Restrictive Business Practices	778
Section D. Obligations of Members	778
Section E. Supplementary Enforcement Arrangements	779
Section F. Continued Effectiveness of Domestic Measures against Restrictive Business Practices	779
Section G. Exceptions to the Provisions of this Chapter	779
Section H. General Observations	779
Chapter V. Inter-governmental Commodity Arrangements	779
Section A. General Considerations	779
Section B. Inter-governmental Commodity Arrangements in General	780
Section C. Inter-governmental Commodity Arrangements Involving the Regulation of Production, Export, Import or Prices	781
Section D. Miscellaneous Provisions	782
Chapter VI. Establishment of an International Trade Organization	784
Section A. General Observations	784
Section B. Purposes of the Organization	784
Section C. Membership and Functions	784
Section D. The Conference	784
Section E. Voting and Executive Board Membership	785
Section F. The Executive Board: Procedure, Powers and Duties	788
Section G. The Commissions	788
Section H. The Secretariat	790
Section I. Miscellaneous Provisions	791

Part I

Introduction

1. At its First Session, held in London in February, 1946, the Economic and Social Council, on the motion of the representative of the United States of America, adopted a Resolution constituting the Preparatory Committee of the International Conference on Trade and Employment. The Resolution, after stating that the Council considered it essential that the co-operative economic measures already taken be supplemented by further international measures dealing directly with trade barriers and discriminations which stood in the way of an extension of multilateral trade and by an undertaking on the part of nations to seek full employment, called an International Conference on Trade and Employment for the purpose of promoting the expansion and production, exchange

and consumption of goods. The Resolution entrusted to the Preparatory Committee the task of elaborating an annotated draft agenda, including a draft convention for consideration by the Conference, and suggested certain topics to be included in the agenda of the Preparatory Committee.

2. At the Second Session of the Economic and Social Council held in New York the Secretary-General of the United Nations announced on 31 May, 1946, that arrangements were being made for the Preparatory Committee to meet in London on 15 October.

3. The First Session of the Committee convened in Church House, Dean's Yard, London, on 15 October, 1946, and concluded on 26 November, 1946. Notification of the convening of the Preparatory Committee had been sent by the Secretary-General to its eighteen members and all members, except the Union of Soviet Socialist Republics, signified their intention of attending. The Union of Soviet Socialist Republics felt unable to participate in the work of the Committee at this stage as it had not at that time found it possible to devote sufficient preliminary study to the serious and far-reaching questions which were the subject of the Committee's discussions.

4. Certain Members of the United Nations, which are not members of the Preparatory Committee, sent official representatives to observe the proceedings of the First Session.[1] Representatives of certain inter-governmental organizations attended the First Session and participated in proceedings.[2] Some non-governmental organizations also sent representatives to the First Session and these representatives gave the Preparatory Committee the benefit of these organizations' views on certain questions.[3]

5. Before attempting to outline the work accomplished at the First Session, it is desirable to emphasise that this is a "preparatory" committee the task of which is to prepare an annotated agenda for an international conference and that it is only at the final stage, that is at the Conference, that governments will enter upon binding commitments. However it is clear that a thorough discussion by the officials of a large number of the world's principal trading nations in advance of the Conference will greatly facilitate the work of the Conference itself. This conception of the task of the Preparatory Committee is essential for a full understanding of the nature and significance of the Report which follows.

6. The early meetings of the Preparatory Committee were devoted to a general consideration of the agenda and of the organisation and conduct of the Committee's business. The discussion of the agenda resulted in the addition to it of first, the question of an international agreement relating to industrial development and second, the question of the inclusion in an appropriate international agreement of an undertaking to promote high and steadily rising levels of effective demand. At a later stage in the work of the First Session, certain delegates expressed the view that questions relating to services, in addition to those relating to goods, should be discussed. However other delegates were doubtful whether the terms of reference of the Preparatory Committee would permit such discussion.

7. The Committee decided that the detailed examination of the varied items of the agenda should be entrusted to a number of working committees, which are described below, and that the work of these committees would be facilitated if their proceedings were conducted in private. On the other hand, the Committee was anxious that public opinion should be kept fully informed through the press and the Secretariat was, therefore, directed to make arrangements for frequent press conferences and eventually to publish this Report of proceedings.

8. The following working committees were established by the Preparatory Committee:

Committee I: Employment and Economic Activity.
Committee II: General Commercial Policy.
Committee III: Restrictive Business Practices.
Committee IV: Inter-governmental Commodity Arrangements.
Committee V: Administration and Organization.

A sixth committee, the Joint Committee on Industrial Development, was established following a joint meeting of Committees I and II. In addition to these working committees an informal committee of heads of delegations met from

[1] These countries were: Colombia, Denmark, Poland, Peru, Mexico, and Syria.
[2] The organizations were: the Food and Agriculture Organization, the International Bank for Reconstruction and Development, the International Labour Office and the International Monetary Fund.
[3] The organisations were: the International Chamber of Commerce, the International Cooperative Alliance, the World Federation of Trade Unions, and the American Federation of Labour.

time to time during the First Session and provided the general guidance and steering required for the efficient conduct of the Committee's business.

9. The officials of the Preparatory Committee at its First Session were:

Chairman: M. Max Suetens (Belgium/Luxembourg).
First Vice-Chairman: M. Z. Augenthaler (Czechoslovakia).
Second Vice-Chairman: H. E. Señor Alberto Inocente Alvarez (Cuba).

Committee I

Chairman: H. E. Dr. Wunsz King (China).
Vice-Chairman: Mr. S. D. Pierce (Canada).

Committee II

Chairman: Dr. H. C. Coombs (Australia).
Vice-Chairman: Dr. A. B. Speekenbrink (Netherlands).

Joint Committee on Industrial Development

Chairman: Mr. H. S. Malik (India).
Vice-Chairman: H. E. Dr. Wunsz King (China).
Vice-Chairman: Dr. H. C. Coombs (Australia).

Committee III

Chairman: M. Pierre Dietrlen (France).
Vice-Chairman: Senor don Higinio González (Chile).

Committee IV

Chairman: Mr. J. R. C. Helmore (U. K.).
Vice-Chairman: Mr. Melander (Norway).

Committee V

Chairman: Mr. Lyman R. Edminster (U. S.).
Vice-Chairman: Senhor Helio de Burgos Cabal (Brazil).

10. The various working committees gave detailed consideration to the appropriate sections of the agenda, using as a basic document the draft Charter for an International Trade Organization submitted by the delegation of the United States, together with documents submitted by other delegations including, inter alia, a Draft Charter submitted by the delegation of Brazil, a detailed commentary on the United States proposals submitted by the delegation of India, a memorandum on employment policy submitted by the delegation of the United Kingdom and other documents.

11. There ensued in the Committees an extensive discussion of the viewpoints of the different delegations and an attempt was made to arrive at a statement of the points on which a general identity of view could be reached. Where differences of views could not be reconciled, the Committees contented themselves with a statement of the different viewpoints advanced. The Committees also endeavoured so far as possible to prepare draft texts for a Charter of or Articles of Agreement for an International Trade Organization, giving expression to the principles upon which a broad identity of view had been reached. Part II of this Report, therefore, contains a record of the discussions in the working committees and in an Appendix there appear the texts which resulted from these discussions. These texts are included in the Appendix as they do not form an integral part of this Report but are rather in the nature of a working document of the Preparatory Committee which will receive further editing, first by a Drafting Committee, which is to meet in New York in January, and again at the Second Session of the Preparatory Committee which is at present planned to take place in Geneva beginning on 8 April 1947.

12. Reviewing the work of the First Session, it may be justly claimed that good progress has been made. The work will be carried forward and, it is hoped, completed at the Second Session in April 1947 which will also include multilateral negotiations between the members of the Preparatory Committee directed towards the reduction of tariffs and the elimination of preferences.[4] In order to prepare the way for these tariff discussions the Preparatory Committee elaborated a document on procedures. It is hoped that with the completion of the task of the Preparatory Committee at its Second Session, the stage will have been set for the International Conference in the autumn of 1947.

13. In concluding this Introduction to the Report it is desired first, to place on record the appreciation of the Preparatory Committee for the cordial welcome

[4] See Exhibit IV–C.

afforded to it by H. M. Government in the United Kingdom, and second, to recognize the great contribution to the Preparatory Committee of the extensive and careful work which the experts of the United States had done and which was embodied in the draft Charter for an International Trade Organization.

PART II

CHAPTER I. ACHIEVEMENT AND MAINTENANCE OF HIGH AND STEADILY RISING LEVELS OF EFFECTIVE DEMAND, EMPLOYMENT, AND ECONOMIC ACTIVITY

SECTION A. THE RELATION OF EMPLOYMENT TO THE PURPOSES OF THE ORGANIZATION

1. In order to maintain international trade at high and stable level, it is necessary to maintain a high and stable level of demand for goods and services throughout the world as well as to achieve a reduction in trade barriers. At the same time full and productive employment and the maintenance of high and stable levels of effective demand cannot make their maximum contributions to raising standards of living without the reduction of harmful trade barriers.

2. It is a main purpose of the United Nations, recognized in Article 55 of the Charter of the United Nations, to promote "higher standards of living, full employment, and conditions of economic and social progress and development." Some discussion took place as to the meaning to be attached to the phrase "full employment." In the less industrialized countries whose economies are more essentially based on primary production, a deficient demand shows itself not so much in mass unemployment (the common form in industrialized countries), as in underemployment or unprofitable employment among their primary producers. For this reason the main objectives of employment policy were defined to include the avoidance of under-employment as well as of unemployment.

3. It was pointed out that if the phrase "full employment" were to be interpreted in the literal sense, namely, that no one able and willing to work should ever be unemployed for however short a period, governments might be held to be committed to types of action which they would not in fact be prepared to carry out. It should, of course, be open to any government to adopt as strict an interpretation as it desires, but for the present purpose it seems appropriate to interpret "full employment" as a condition in which useful employment opportunities are available to all those able and willing to work. It is the maintenance of such a condition and of the high and stable level of demand associated with it which is of real concern from the international point of view.

SECTION B. THE MAINTENANCE OF DOMESTIC EMPLOYMENT

The Preparatory Committee considers that governments owe a responsibility not only to their own citizens but also to the citizens of other countries to do all that is within their power to maintain full and productive employment and high and stable levels of demand within their own territories. A decline of demand in an important country, by reducing its imports from other countries or by causing a burdensome surplus in world markets of commodities, which it was previously producing for its own consumption, is liable to lead to the spread of unemployment or under-employment outside its borders. For this reason governments should agree to take action designed to achieve and maintain full and productive employment of their domestic labour and high and stable levels of effective domestic demand. The type of measure which might be taken for this purpose should, of course, be left to the individual decisions of the governments concerned, which must be free to choose the measures which are appropriate to their own domestic institutions. This choice should be unfettered, although, of course, it is recognized that the measures chosen should be compatible with the other purposes and provisions of the Charter of the International Trade Organization.

SECTION C. THE DEVELOPMENT OF DOMESTIC RESOURCES AND PRODUCTIVITY

Full employment of labour in any country is not the sole condition which, in addition to other factors such as the level of trade barriers, determines the level of effective demand on the part of that country for the products of other countries. A country, which fails to develop its resources effectively or which fails to take every opportunity to raise the productivity of its labour, will, in effect, be failing to expand to the maximum its effective demand for goods and services. Accordingly all governments should recognize that they have a common interest in the

productive use of the world's resources, and should agree to take action designed progressively to develop their economic resources and to raise their standards of productivity. Here again the choice of measures should be left to the government of each individual country, provided that the measures chosen are compatible with the other purposes and provisions of the Charter of the International Trade Organization.

SECTION D. FAIR LABOUR STANDARDS

1. It is considered that if full employment is to make its due contribution to the higher standards of living and conditions of economic and social progress to which Article 55 of the Charter of the United Nations refers, it is necessary that a fair share of the product should accrue to the workers. All countries have a common interest in the maintenance of fair labour standards, particularly in the case of production for export, since otherwise one country's products may be undercut by those of another in which labour is unfairly exploited. Labour standards cannot, of course, be uniform in all countries, but must be related to national productivity. But there was wide support for the view that governments should agree to take whatever action might be appropriate and feasible to eliminate sub-standard conditions of labour in their production for export and generally throughout their economies.

2. A few delegates expressed some doubt whether an agreement on this subject should be included in employment provisions. These doubts were based on two grounds:

(*a*) It would be wrong to attempt to set too high a standard in certain countries, since this would seriously handicap the expansion of production in those countries which, having plentiful supplies of labour but relatively little capital equipment or industrial skill, must for a time base their development on lower remuneration than that in more developed countries.

(*b*) Since the International Labour Organization is the specialized agency which has been specifically charged with this problem, it would lead to a duplication of functions to include an agreement on this subject in the Charter of the International Trade Organization.

3. On point (*a*) the Preparatory Committee agreed that, if any agreement on labour conditions is included in the employment provisions, it must be made clear that there cannot be any single comprehensive standard of fair labour conditions appropriate to all countries, but that the standard must in each case be related to the productivity of the country concerned.

4. On point (*b*) it was generally agreed that the main work on this question should continue to be carried out by the International Labour Organization, and that if any agreement on this subject is included in the Charter[*] of the International Trade Organization, those countries, which are also members of the International Labour Organization, should co-operate closely with that organization in carrying out the agreement. The reason for proposing that some agreement on this subject should, nevertheless, be included is that labour standards in any country, and in particular in its production for export, are a matter which vitually affect the employment of labour and the flow of international trade.

SECTION E. THE REMOVAL OF MALAINJUSTMENTS IN THE BALANCE OF PAYMENTS

1. The Preparatory Committee considers that a country, even though it is maintaining full employment at home, developing its economic resources and raising its standard of productivity and maintaining fair labour standards, may, nevertheless, exercise a deflationary pressure upon other countries. This will be so if it is persistently buying from abroad and investing abroad too little in relation to its exports. Indeed its export surplus may be the means whereby it is maintaining its own domestic employment.

2. It was not suggested that countries, which are experiencing difficulties through unfavourable balances of payments, may not themselves be partly responsible for the maladjustments. For example, countries with adverse balances of payments, whose difficulties are being intensified by flight of capital from their currencies, might properly be called upon to put a stop to such capital export. But, insofar as the pressure on their balances of payments is

[*] Throughout this Report and its Appendix the term "Charter" standing alone refers to the text drafted by the Preparatory Committee and appended to this Report. When the United States Draft Charter or the Charter of the United Nations are mentioned, they are referred to by their full titles.

due to the failure of countries with excessively favourable balances of payments to spend their external purchasing power on imports or to utilize it for productive investment abroad, the main responsibility for the necessary readjustment should not fall on the countries which are under pressure.

3. In the Preparatory Committee there was wide support for the view that where fundamental disequilibrium in a country's balance of payments involved other countries in persistent balance of payment difficulties, which affected adversely the maintenance of employment in those countries, the country concerned should make full contribution to action designed to correct the maladjustment. The particular measure that should be adopted (e. g., the stimulation of imports or the removal of special encouragements to exports, an appreciation of the country's exchange rate, an upward revision of its internal price and cost structure, an increase in foreign investment, etc.) should, of course, be left to the government concerned to determine. The problem here lies in a sphere in which the International Monetary Fund has a very special concern, and it is most desirable that in this field both the national governments concerned and the International Trade Organization should co-operate fully with the Fund.

SECTION F. SAFEGUARDS FOR COUNTRIES SUBJECT TO EXTERNAL DEFLATIONARY PRESSURE

1. After further consideration of the position of countries whose economies are subjected to deflationary pressure as a result of a serious or abrupt decline in the effective demand of other countries, the Preparatory Committee concluded that there must be adequate safeguards to meet this contingency.

2. In this connection it was noted that the Articles of Agreement of the International Monetary Fund contain, for members of the Fund, some important safeguards:

(*a*) The provisions relating to exchange control permit the control of capital exports so that no country suffering from an external deflationary pressure need find its troubles intensified by flight of capital from its currency.

(*b*) A country, which finds itself in a "fundamental disequilibrium" as a result of the maintenance of its own domestic prices, costs and incomes in conditions of external deflation, can apply for an appropriate depreciation of the exchange value of its currency and such a depreciation could not be frustrated by competitive depreciation on the part of other members of the Fund, which are not in a similar "fundamental disequilibrium." In this regard it was noted that the Executive Directors of the International Monetary Fund have interpreted the Articles of Agreement of the Fund to mean "that steps which are necessary to protect a member from unemployment of a chronic or persistent character, arising from pressure on its balance of payments, are among the measures necessary to correct a fundamental disequilibrium."

(*c*) If a country or group of countries has so large an export surplus that its currency becomes "scarce" in the Fund, other countries would be permitted to restrict their purchases from it to the necessary degree without restricting their purchases from each other.

3. The Preparatory Committee is of the opinion that the Charter of the International Trade Organization should also contain adequate safeguards. It was in any case proposed that countries in balance of payments difficulties should be permitted to impose quantitative restrictions on their imports, and it was recognized this would constitute an important safeguard of the type in question. It is suggested that when these safeguards are discussed, all relevant parts of the Charter of the International Trade Organization should be carefully examined to ensure that there are adequate safeguards for a country subjected to pressure as the result of a decline in the effective demand of other countries.

4. It was generally felt that the clauses relating directly to employment should give general recognition to this need for adequate safeguards by requiring the International Trade Organization to have regard, in the exercise of its functions as defined in the other articles of the Charter, to the need of countries to take action, within the provisions of the Charter, to safeguard their economies against deflationary pressure in the event of a serious or abrupt decline in the effective demand of other countries.

SECTION G. INTERNATIONAL ACTION TO MAINTAIN EMPLOYMENT

1. In present circumstances the direct action necessary to maintain full and productive employment and a high and stable level of effective demand must, in

the main, be the sum of individual national efforts. Nevertheless there are certain ways in which the appropriate inter-governmental organizations might, acting within their respective spheres and consistently with the terms of their basic instruments, make some direct contribution to the maintenance of employment and the stability of world demand.

2. It is considered that the Economic and Social Council, in consultation with the appropriate inter-governmental organizations, might usefully study the possibilities in this field. In addition to a consideration of the effects on employment and production of a lowering of barriers to trade, such studies might well cover such measures as the synchronization of credit policies so as to ease terms of borrowing over a wide area in times of general deflationary pressure, arrangements to promote stability in the incomes, and so in the buying power, of producers of primary products, the timing of expenditure on international capital projects and the encouragement of a flow of capital in periods of world deflationary pressure to those countries whose balance of payments needs temporary support in order to enable them to maintain their domestic policies for full and productive employment.

SECTION H. THE FUNCTIONS OF THE ECONOMIC AND SOCIAL COUNCIL AND THE SPECIALIZED AGENCIES

1. The international structure, which may be necessary to achieve these employment objectives, was considered: Effective action in this sphere will involve separate action by governments and by a number of inter-governmental organizations. Yet such action must be properly concerted, if the national and international measures for offsetting a general depression are to be properly timed and of the right magnitude.

2. The Preparatory Committee considers that there should, accordingly, be some international body under whose sponsorship governments and inter-governmental organizations can consult with a view to concerted action to maintain employment, and the appropriate body for this purpose would seem to be the Economic and Social Council of the United Nations, together with its Economic and Employment Commission and its sub-commissions, to whom this task has already been entrusted.

3. The functions, which, it is thought, the Economic and Social Council should either perform itself or sponsor through arrangements with the appropriate inter-governmental organizations, cover

(i) the regular collection, analysis and exchange of relevant information and

(ii) the organization of consultation with a view to concerted national and international action in the field of employment.

In addition to these continuing functions, it was considered the Economic and Social Council might initiate those studies of possible direct international action for the maintenance of employment to which reference has been made in paragraph 2 of Section G.

4. The work, which it is suggested, the Economic and Social Council and the inter-governmental organizations concerned might undertake on this subject will be of great importance. The information which is to be collected should, as far as possible, cover the level and composition of the national income and expenditure and of the balance of payments, as well as statistics of employment, unemployment, production, etc. As far as is appropriate and practicable, it should cover future programmes and probable future trends in order that the needs of employment policy may be intelligently anticipated. Close and regular consultation for concerted action by governments and inter-governmental organizations will be necessary in order to see how far national policies (e. g. for expenditure on public works) or any relevant international policies can be timed so as to make their most effective joint contribution to the maintenance of world demand.

SECTION I. THE FORM OF THE EMPLOYMENT PROVISIONS

1. The Preparatory Committee holds the view that the suggestion that the Economic and Social Council should continue to fulfill these general functions in employment policy need not conflict with the special link that should exist between employment and trade. Governments may find it difficult to assume the commercial obligations of the International Trade Organization in the absence of undertakings by others to do their best to maintain a high and stable level of effective demand and employment policies must not conflict with commercial obligations. It is necessary for these reasons to link the trade obligations and the

employment obligations closely together. Accordingly it is considered it would probably be most appropriate to include the employment undertakings in the Charter of the International Trade Organization.

2. It is thought, however, that there is one aspect of employment which should probably be treated differently. In paragraph 2 of Section G, it is suggested that the Economic and Social Council and the appropriate inter-governmental organizations should be invited by the United Nations Conference on Trade and Employment to consider what action might be taken in the international field to assist in maintaining full and productive employment and a high and stable level of world demand. It is thought that this invitation might best be extended in a separate resolution. A draft of this resolution for the consideration of the Conference on Trade and Employment is set out in the next paragraph.

3. Text of Draft Resolution on International Action Relating to Employment.

THE UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

CONSIDERING that a significant contribution can be made to the achievement and maintenance of full and productive employment and of high and stable levels of effective demand by international action sponsored by the Economic and Social Council and carried out in collaboration with the appropriate inter-governmental organization, acting within their respective spheres and consistently with the terms and purposes of their basic instruments HEREBY ASKS the Economic and Social Council to undertake at an early date, in consultation with the appropriate inter-governmental organizations, special studies of the form which such international action might take AND SUGGESTS that, in addition to covering the effects on employment and production of a lowering of barriers to trade, the studies of the Economic and Social Council should include a consideration of such measures as:

(1) The concerted timing, to the extent which may be appropriate and practicable in the interests of employment policy, of national and international measures to influence credit conditions and the terms of borrowing;

(2) National or international arrangements, in suitable cases, to promote due stability in the incomes of producers of primary products, having regard equally to the interests of consuming and producing countries;

(3) The timing, to the extent which may be appropriate and practicable in the interests of employment policy, of capital expenditure on projects which are either of an international character or are internationally financed;

(4) The promotion, under appropriate safeguards, of an international flow of capital in periods of word deflationary pressure to those countries whose balance of payments needs temporary support in order to enable them to maintain domestic policies for full and productive employment.

CHAPTER II. INDUSTRIAL DEVELOPMENT

SECTION A. THE DEVELOPMENT OF ECONOMIC RESOURCES

1. The Preparatory Committee feels that there should be a clear recognition in the Charter of the International Trade Organization that the progressive development of economic resources in all parts of the world is not only desirable in itself as a means of raising living standards in particular countries, but is also desirable as a means of expanding the volume of world trade, thus benefiting all countries interested in international commerce. Improvements in standards of production and real income in a country contribute to the achievement and maintenance by that country of high and rising levels of effective demand for goods and services in general, thus enhancing the capacity of that country to participate in world trade. The development of economic resources will also have desirable social consequences by expanding the range of useful employment opportunities. It is, therefore, desirable that there should be progressive development, especially in those countries whose industries at present are inadequately developed relative to their potential.

2. It is thought that one of the chief gains from development is found in the resulting greater diversification within and between primary, manufacturing and service industries. Such diversification can contribute to increased stability in the economy of a country and confer upon it great social and cultural benefits.

The development of manufacturing industries will be of particular importance as it is through such development that the greatest measure of diversification of production and employment opportunities can be achieved.

3. It is desired also to draw attention to a matter of interest to all countries, namely, the early economic reestablishment and industrial restoration of those countries whose economies have suffered from the direct impact of war. These countries have resources so real and important to the rest of the world that their temporary disappearance or decline has been followed by difficulties in parts of the world far removed from the theatres of war. Their economies are in many cases those of already well-developed countries and are ready for relatively rapid reestablishment which will put them in a position to make available to other countries materials, equipment and other manufactured products, which will be needed for economic development. In these countries there are qualified technicians and experienced artisans already accustomed to modern industrial technology and ready to undertake the great diversity of occupations involved. Once restored these war-devastated countries will be in a position to contribute to technical progress and to the raising of productivity and living standards. It is believed, therefore, that measures should be taken to facilitate a rapid return in the devastated countries to the development interrupted by the war and that this will be helpful to the rapid and sound development of other countries

SECTION B. ADAPTATION OF ECONOMIES

1. As the less developed countries progressively undertake the production of a wider range of commodities for their domestic markets, it is likely that the more highly developed economies, which formerly supplied the markets of the less developed countries, will be faced with problems of adapting their economies to the changed circumstances. These problems will be minimised, both in degree and duration, if countries are careful to ensure that their development programmes are soundly based and carried out. The Preparatory Committee suggests that only in this way will the developing country make its most effective contribution to its own economic welfare and to international trade, and only thus will the more highly developed countries be able to adapt their economies with reasonable prospect of success.

2. On the other hand there will also be problems of adjustment facing the developing countries. These problems will be mainly associated with the transfer of workers from agriculture and other primary industries, as the productivity of labour in such industries increases, to manufacturing and other branches of expanding economic activity. This transfer may involve a geographical redistribution of population with all its attendant problems, as well as problems of occupational training and retraining.

SECTION C. CONDITIONS OF INDUSTRIAL EMPLOYMENT

In any country the conditions of the industrial development of economic resources include capital, capital goods and materials markets, an adequate technology, managerial skill and technicians and trained artisans in sufficient numbers. When any of these conditions are unsuitable, international and domestic action may be taken to modify the situation. This international action may be such as to facilitate the supply of capital, capital goods and materials, to provide skilled management, trained technicians and artisans and to improve technology. Individual countries may take action to plan and carry out development projects, to raise standards of industrial management, and to provide for the training of their own nationals as technicians and artisans, and subject to international obligations, they may aim by the use of protective measures at providing a reasonable share of the home markets to the commodities being produced in their own territories.

SECTION D. PROVISION OF CAPITAL

1. Capital may be needed by a country to modernize and improve the technology of existing industries, to expand existing industries or to establish new ones. It may also be needed to improve or increase the supply of public utilities such as transport and communication services, water and power supplies. While projects of the latter character are essential to progressive development, they may not be immediately or directly remunerative, and international action may be all the more necessary, if the supply of capital is to be adequate.

2. The Preparatory Committee feels that the international supply of capital will be particularly necessary to the less developed countries and to the countries which have suffered from war. The channel for this supply may be through private investors, through government agencies, or through the International Bank for Reconstruction and Development. In view of the importance of industrial development to expansion of world trade, it is felt that all members of the International Trade Organization should recognize that they have a responsibility to co-operate within the limits of their power to do so with appropriate international organizations in ensuring that there is a regular flow of capital to those countries in particular which have limited capital resources. The International Trade Organization might well participate in discussions with its own members and with other international organizations regarding proposals to this end. In addition it is felt that members should undertake not to place any unreasonable impediments in the way of other members having access to capital.

3. A country embarking on a programme of development involving substantial imports of capital goods may be faced with the possibility of balance of payments difficulties. It is considered that if at any time a country anticipates that such difficulties are imminent, it should be permitted to impose qualitative regulation of its imports so that the appropriate balance may be kept between its imports of capital and consumer goods. Naturally such a regulation of imports will only remain necessary while the prospect of balance of payments difficulties remains.

SECTION E. SUPPLIES

In all countries there will be a demand for capital equipment and materials of all kinds arising from programmes of production and development. For most countries, including those which are actively promoting their industrial and general economic development, this demand can only be satisfied by obtaining supplies of one kind or another from other countries. Therefore the Preparatory Committee is of the opinion that members of the Organization should recognize that they have an obligation to other members to refrain from placing unreasonable obstacles in the way of supply of capital goods and materials of all kinds needed by other members. This obligation, of course, would be undertaken subject to the other provisions of the Charter. For example, where special shortages occur in the supplying country, particularly in the early post-war transitional period, such countries would be free to apply restrictions in the manner provided in Article 25 of the Charter. In such circumstances, however, it is hoped that they would take into account the needs of other countries, and hold such restrictions to a minimum.

SECTION F. TECHNOLOGY AND TRAINING

One of the most important ways in which industrial development can be promoted throughout the world is through the dissemination of knowledge concerning techniques of production, particularly in countries at present inadequately developed relative to their potential. This can be achieved in part by national and international action to make available as widely as possible (subject to considerations of national security), knowledge of new developments in all countries resulting from changing technology and scientific research, and in part by individual action by business entities in the less industrialized countries gaining access to patents, specifications and technological developments. This may be accomplished, for example, by such business entities becoming associated with more experienced ones in the more highly industrialized countries. Technology can be improved also if technicians and skilled artisans in the more developed countries are encouraged to go, permanently or temporarily, to the less developed countries. On the other hand the less developed countries should provide for raising the standard of technical and technological training of their own nationals and should have opportunities of sending their own nationals to the more developed countries for instruction and training.

SECTION G. MUTUAL RESPONSIBILITIES

In the carrying out of programmes of industrial and general economic development, therefore, there will be an interdependence between the less developed and the more highly developed countries. In relation to the international supply of facilities for economic development including capital funds, capital goods and materials, equipment, advanced technology and trained personnel, the Prepara-

tory Committee is of the opinion that all countries should recognize that they have mutual responsibilities. It has already been noted that countries in a position to supply these facilities should impose no unreasonable impediments that would prevent other countries from obtaining access to such facilities. It is equally important, however, that countries receiving such facilities should treat the supplying countries, including their business enterprises and citizens, in conformity with the provisions of any of their relevant international obligations and, in general, that they should take no unreasonable action injurious to the interests of the supplying country.

SECTION H. MARKETS AND PROTECTION

1. As a general rule newly established industries depend, initially at least, upon domestic markets for the sale of their products. The Preparatory Committee is of the opinion, therefore, that where necessary members desiring to promote industrial development should have or should be afforded reasonable freedom to employ protective measures so that an adequate portion of their local markets may be assured to the commodities concerned. However, since an unwise use of protective measures by any country for the purpose of promoting industrial development places an undue burden on the economy of that country and imposes unwarranted restrictions on international trade, it is desirable that countries promoting development should not make immoderate use of such protective measures.

2. The use of dumping policies by other countries might be particularly harmful to countries wishing to carry out a programme of development or reconstruction. However, special action will be recommended later to provide against this contingency.

3. Since the comparative development of member countries is uneven, and since the levels of existing tariffs are unequal, it is considered that account should be taken of these factors by members generally in any tariff negotiations and by the Organization should it be called upon to determine whether a country has fulfilled its obligations with respect to such negotiations.

SECTION I. NATURE OF PROTECTION

1. Considerable attention was devoted to the question of the kind of protective measures which might be used for promoting development. It was generally recognized that the Charter provides a substantial measure of freedom to use subsidies and that it also permits the use of tariffs in those cases where tariff rates are not bound against increase as a result of agreements voluntarily negotiated by prospective members as contemplated in connection with the Charter. Discussion of this problem was, therefore, related principally to the means whereby a member might obtain a limited release from obligations assumed in the course of such negotiations with other members and from regulations contained in the Charter governing the use of forms of protection other than subsidies and unbound tariffs.

2. It has been concluded that such releases should be granted in appropriate circumstances and the procedure, which is described in paragraph (3) of Article 13 of the Charter, has been agreed. Subparagraph (*b*) of that paragraph covers a situation in which permission is sought to raise a tariff that had been bound as as a result of negotiations with other members, or in which it is desired to impose some other form of protection that is otherwise not permitted by the Charter and that would impair the value to other members of an agreement negotiated with respect to tariffs. The somewhat simpler procedure indicated under subparagraph (*c*) provides for cases in which release is sought from obligations assumed by ratification of the Charter and such release would not impair the result of prior tariff negotiations. Particular attention was given to the possible use of quantitative regulation of imports as a means of protection. The Preparatory Committee is of the opinion that, subject to the suggested procedure, this means should be employed only where it would place a lighter burden on the country giving the protection and where it would be less restrictive of international trade than would be the case with other forms of protection.

3. One delegate felt that quantitative restrictions should be recognized as a means of giving protection which could be used at any time in the early stage of industrial development by a member deeming it absolutely necessary, subject only to the right of any other member to complain to the Organization if such

member felt that in any instance quantitative restrictions were being used unjustifiably. This delegate specifically reserved his position with regard to paragraph (3) of Article 13 of the Charter.

4. A second delegate expressed concern at what he regarded to be the complicated and lengthy character of the procedure for obtaining release provided in paragraph (3) of Article 13. He felt the suggested procedure might make it difficult for under-developed countries to obtain a release, particularly to use quantitative restrictions. In those cases in which quantitative restrictions are no more restrictive than alternative forms of protection, he would urge that the procedure adopted by the Organization should be less cumbersome, providing for release on the basis of criteria established by the Organization, without requiring prior consultation with other members. Although realizing the evils of quantitative restrictions, he believed their use for protection should be provided specifically in the Charter. However he did appreciate the compromise that had been reached in this matter and did not at this stage propose any amendments, although reserving his position.

5. Despite the proposal, set out in paragraph (3) of Article 13, namely that the Organization should be empowered to give a release in appropriate circumstances to a member in respect of *any* obligations under the Charter, one delegate felt that there should be more specific provision for the use of regional preferential arrangements as a means of giving protection and reserved his position on this point.

SECTION J. ALLOCATION OF FUNCTIONS

1. Careful consideration was given to the question of how the international functions relating to industrial development can best be carried out and to the part which the International Trade Organization should play in their performance. It is clear that the International Trade Organization must exercise functions relating to industrial development at least insofar as measures of commercial policy are employed to foster such development. From the point of view of the purposes of the Charter and the effective working of the International Trade Organization, there are strong arguments for empowering the Organization to perform certain positive functions in relation to industrial development, particularly in the provision of technical aid to members in the formulation and execution of plans for development. Accordingly there has been included in the Charter a tentative provision which, if adopted, would enable the International Trade Organization within its competence and resources to provide such aid.[6]

2. This task, because of its essential administrative character, would be appropriate to a specialized agency, and its performance by the International Trade Organization might provide a useful means of positive co-operation with members. Furthermore it would provide the personnel of the Organization with continuous experience of the positive as well as the protective aspects of national development policies and so assist them in maintaining the balanced point of view which will be essential to the wise exercise of the discretions which the Charter entrusts to the Organization.

3. The Preparatory Committee is aware, however, that this problem cannot be looked at solely from the point of view of the purposes of the Charter. There are a number of inter-governmental agencies and organizations concerned with various aspects of industrial development. These include the Sub-Commission on Economic Development of the Economic and Social Council, the International Bank for Reconstruction and Development, the International Labour Organization, the Food and Agricultural Organization and the United Nations Educational, Scientific and Cultural Organization. The Preparatory Committee assumes that the Economic and Social Council will shortly be giving consideration to the question of the appropriate division among various agencies of responsibilities not yet allocated in the field of economic development and to the means whereby their activities can be adequately co-ordinated, and that the decisions of the Council on these questions must be based on other and possibly wider considerations than those which fall within the competence of the Preparatory Committee. Accordingly, paragraph (3) of Article 11, by which the Organization is empowered to provide technical aid to members, has been placed in square brackets as an indication that its inclusion should be regarded as provisional until the views of the Economic and Social Council on this question have been formulated.

[6] Paragraph (3) of Article 11.

4. It is suggested, therefore, that the Economic and Social Council should be invited, when examining the allocation of functions in relation to industrial development, to give due weight to the considerations set forth above and to advise whether the inclusion of paragraph (3) of Article 11 is consistent with the Council's views.[1]

5. In view of the fact that there are many factors, other than those directly relating to the International Trade Organization, which require to be taken into consideration in this matter, the Preparatory Committee expresses the hope that those of its members, which are not also members of the Economic and Social Council, may be invited to submit their views at the time the Council is considering these matters.

CHAPTER III. GENERAL COMMERCIAL POLICY

SECTION A. GENERAL MOST-FAVOURED-NATION TREATMENT, TARIFFS AND TARIFF PREFERENCES, ETC.

1. Most-Favoured-Nation Treatment

(*a*) The Preparatory Committee is in agreement with the principles

(i) that members of the International Trade Organization should grant each other general unconditional most-favoured-nation treatment in respect of all customs matters; and

(ii) that existing preferences, which are of long standing and which have important effects on the economies of the countries concerned, should be excepted from the most-favoured-nation clause pending their elimination by negotiations pursuant to the provisions of Article 24.

(*b*) The most-favoured-nation provisions set forth in Article 8 of the United States Draft Charter were compared with the standard most-favoured-nation clause developed by the League of Nations for inclusion in bilateral agreements. It was concluded that there were no important differences of substance between the two versions and that the version incorporated in Article 8 was preferable because of its brevity.

(*c*) The most-favoured-nation clause recommended by the Preparatory Committee incorporates certain concepts (for example "the like products", "country of origin", etc.) which have been customarily included in commercial agreements in the past but which have never received a precise definition. The Preparatory Committee is of the opinion that the matter of defining such concepts should be left for study by the International Trade Organization after its establishment.

(*d*) The principal differences between the text of Article 8 of the United States Draft Charter and of that recommended by the Preparatory Committee, and the reasons for these differences, are as follows:

(i) Under paragraph 1 of Article 8 of the United States Draft Charter the grant of most-favoured-nation treatment extends to firstly, the awarding of governmental contracts for public works and secondly, to the purchase by governments of supplies for governmental use (i. e. not for resale). Under the revision recommended by the Preparatory Committee these subjects are removed from the scope of the most-favoured-nation clause.

(ii) The Preparatory Committee is of the opinion that the awarding of public works contracts is more closely related to the question of the treatment of foreign nationals and corporations than to the treatment of the trade in goods. It is considered that Chapter V of the Charter should be confined to matters affecting trade and that questions relating to the treatment of nationals, etc., should be the subject of future agreements developed under the auspices of the International Trade Organization as contemplated under paragraph (5) of Article 61 of the Charter. Under this paragraph as well as under Article 75, the International Trade Organization can recommend the adoption of special agreements dealing with public works contracts.

(iii) The commitment regarding governmental purchases of supplies for governmental use was removed from the scope of the most-favoured-nation clause because a suitable clause dealing with such governmental purchases is recommended for inclusion in Article 31 (Non-discriminatory Administration of State-Trading Enterprises).

[1] See Annexure 8.

(iv) The Preparatory Committee considered the provision in Article 9 of the United States Draft Charter for national, as distinct from most-favoured-nation, treatment in respect of governmental purchases of supplies for governmental use. Such provision would require the elimination of the many "buy-national" laws under which national governments are required to give preference to domestic products in purchasing their administrative supplies. As it appears to the Preparatory Committee that an attempt to reach agreement on such a commitment would lead to exceptions almost as broad as the commitment itself, the Preparatory Committee has omitted this commitment.

(v) Under paragraph 2 of Article 8 of the United States Draft Charter certain long-standing preferences are temporarily excepted from the most-favoured-nation clause (i. e., they are excepted pending their elimination by negotiation under Article 18 of that Charter) provided that they were in effect in either 1939 or 1946 (whichever date resulted in the lower preferences). Also, under that paragraph the preferences thus excepted were limited, roughly, to Imperial or Commonwealth preferences and Cuban-American preferences.

(vi) Under the revision of paragraph 2 of Article 8 (Article 14) which is recommended by the Preparatory Committee, the preferences excepted from the most-favoured-nation clause are those remaining after the negotiations contemplated in Article 24 rather than those in effect on a particular date. Also, the categories of preferences thus excepted are broadened to include not only Imperial and Cuban-American preferences but also preferences in force between neighbouring countries in 1946.

(vii) The base dates in paragraph 2 of Article 8 of the United States Draft Charter would determine in a precise way those preferences to be eliminated under the most-favoured-nation clause and those preferences to be subject to negotiations under Article 18 of that Charter. Accordingly, the removal of the base dates from this paragraph will require that some other method be found of establishing a basis for negotiations with respect to preferences. Recommendations on this point are included in that part of the Report which relates to the proposed multilateral trade-agreement negotiations among members of the Preparatory Committee.

(viii) In this connection one delegate suggested that Articles 8 and 18 of the United States Draft Charter 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 8, 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.

2. *Reduction of Tariffs and Elimination of Preferences*

(a) *General Observations*—

(i) The Preparatory Committee was in general agreement with the basic principles that the members of the International Trade Organization should enter into reciprocal and mutually advantageous negotiations with each other directed to the substantial reduction of tariffs on imports and exports and to the elimination of import tariff preferences, that these negotiations should proceed in accordance with certain rules and that members, which unjustifiably fail to fulfill their obligation regarding tariffs and preferences, should not be entitled to receive the benefits resulting from the fulfillment of these obligations by other members.

(ii) One delegate while recognizing that the proposed negotiations are to be conducted on a reciprocal and mutually advantageous basis and that the obligations undertaken pursuant to such negotiations would be subject to readjustment by the International Trade Organization in accordance with the principles and procedures set forth in Chapter IV (Economic Development), nevertheless questioned the application to countries in the early stages of economic development of the principles set forth above that tariffs should be reduced substantially.

(iii) Another delegate suggested that the rules governing the negotiations should take into account the relative levels of the tariffs of each country in the light of the position of those countries which are in the early stages of industrial development. While making this suggestion, this delegate indicated his willingness to raise with his Government the question whether the principles and procedures recommended in Chapter IV (Economic Development) do not adequately meet the requirements he wished to see satisfied.

(*b*) *Scope of Negotiations*—

(i) Under paragraph 1 of Article 18 of the United States Draft Charter the proposed negotiations would extend to tariffs on imports and exports and import tariff preferences. Under the revision prepared by the Preparatory Committee the scope of the negotiations has been broadened to clearly cover charges on imports and exports other than tariffs. The additional charges in question are intended to mean charges analogous to tariffs; they are not, for example, intended to include non-discriminatory internal taxes which are collected at the time of importation.

(ii) The reference to negotiations regarding state-trading margins, which appears in paragraph 1 of Article 18 of the United States Draft Charter has been omitted fom the revision. It was believed that undertakings to negotiate with respect to such margins, in the manner specified in the case of tariffs and preferences, were adequately provided in the revision. (Article 32.)

(*c*) *Rules Governing Negotiations*—

(i) Certain drafting changes were suggested with regard to the rules governing negotiations set forth in paragraph 1 of Article 18 of the United States Draft Charter. *Firstly*—Sub-paragraph (*a*) provides that "Prior international commitments shall not be permitted to stand in the way of action with respect to tariff preferences." It was agreed that the intention lying behind this provision could be more clearly expressed as follows: "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 of existing international obligations except by agreement between the contracting parties or, failing that, by termination of such obligations in accordance with their terms." *Secondly*—Sub-paragraph (*b*) provides that negotiated reductions in most-favoured-nation tariffs should operate automatically to reduce or eliminate margins of preferences in effect on 1 July 1939. In view of the impracticability of establishing a common base date for negotiating preferences, the revision recommended by the Preparatory Committee omits any reference to a base date to be used in applying this rule. Three delegates thought that the rule 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 margin between the two negotiated rates is smaller than that existing on a (prior) date to be agreed upon. *Thirdly*—An additional rule has been included, as sub-paragraph (*c*) of Article 24, which provides that during the negotiations 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.

(ii) The Preparatory Committee also considered the question whether a rule should be included in Article 18 of the United States Draft Charter to the effect that the elimination of quantitative restrictions (as defined in Article 29 of that Charter) on the one hand, and the binding of preference-free treatment on the other hand, should be considered concessions equal in value to the reduction of tariffs or the elimination of preferences. It was agreed that since preference-free treatment and quantitative restrictions were to be dealt with under general rules incorporated respectively in Article 14 (Most-Favoured-Nation Treatment) and Articles 25–28 (Quantitative Restrictions) of the revised text, they could not properly be included in the rules governing selective tariff negotiations. At the same time it was recognized that, in accordance with the plan for conducting tariff negotiations among the members of the Preparatory Committee, those countries would not be called upon to subscribe to the most-favoured-nations and quantitative restrictions provisions until selective tariff negotiations had been completed and vice-versa. It was believed that this circumstance would assure that due weight will be given in the tariff negotiations to the benefits to be derived from the elimination of quantitative restrictions and the general grant of most-favoured-nation treatment.

(d) Withholding of Tariff Benefits from Members of the Organization Which Fail to Carry Out Obligations for the Reduction of Tariffs and Elimination of Preferences—

Several changes were made in paragraph 3 of Article 18 of the United States Draft Charter.

(i) Paragraph 3 provides that the International Trade Organization may authorize a member to withhold tariff reductions from another member which "failed to negotiate" as required by paragraph 1. Under the revision the Organization can authorize withholding for failure to negotiate "in accord-

...ance with the rules laid down in paragraph (1)" (i.e. in sub-paragraphs (*a*), (*b*) and (*c*) of paragraph (1)). This, for example, a country having low tariffs cannot be accused under paragraph (3) of failure to negotiate adequately because of unwillingness to reduce its tariffs substantially. Also, under the revision, a member can bring a complaint before the Organization in the event of another member failing to consider reductions of high tariffs in return for bindings of low tariffs.

(ii) Under paragraph 3 of the United States Draft Charter the withholding of tariff benefits by members is restricted to tariffs *reductions* effected pursuant to negotiations under paragraph 1. Under the revision members are authorized to withhold any tariff benefits, including bindings, granted pursuant to negotiations. The purpose of this change is to assure that low tariff countries (which may not have granted many tariff reductions) will not be placed in an unfavourable bargaining position in dealing with members of the Organization which may be reluctant to carry out the obligations of paragraph (1) of Article 24.

(iii) Language has been included in paragraph (3) of Article 24 to assure that the Organization, in determinating whether a member has unjustifiably failed to negotiate adequately as required by paragraph (1), will take into account the situation of the member under the Charter as a whole, including Chapter IV of the Charter (Industrial Development).

3. Emergency Action in Respect of Imports of Particular Products

(*a*) The Preparatory Committee considers that members of the Organization, in the event of unforeseen developments and of injurious effects on their trade caused by or threatened by reason of the obligations laid down in Chapter V (including tariff or preference concessions) should be permitted to withdraw or modify the obligations to the extent and for the time necessary to prevent the injurious effects. The Preparatory Committee agreed that this right should be subject to adequate safeguards and to the possibility of counter-action by other members in the event of the abuse of the right.

(*b*) Three basic changes have been incorporated in the revision of Article 29 of the United States Draft Charter.

(i) Language has been inserted in paragraph (1) of the revision (Article 34) which makes it clear that members invoking the Article may withdraw or modify concessions in respect of preferences as well as concessions in respect of tariffs and obligations regarding quantitative restrictions etc.

(ii) A provision has been included under which members may, in critical and exceptional circumstances, modify or withdraw concessions under the Article, on a provisional basis, without prior consultation with the other interested members of the Organization, provided that consultation is undertaken immediately following upon the taking of such action.

(iii) Two delegates questioned the desirability of permitting action under the Article without prior consultation even in emergency circumstances. One of these delegates also proposed that if action without prior consultation was permitted to a member, immediate counter-action by other affected members should also be permitted, without the delays involved in obtaining the permission of the International Trade Organization to take such action.

(*c*) Provision has been made to assure that, ordinarily, counter-action taken under Article 34 will not be disproportionate to the provoking action. At the same time the Organization is authorized to permit severe counter-action in cases of abuse of the privileges granted by the Article.

4. Consultation—Nullification or Impairment

(*a*) The Preparatory Committee agreed that members of the International Trade Organization should stand ready to consult with one another regarding any matter affecting the operation of the provisions of Chapter V of the Charter relating to trade barriers. It was also agreed that any member should be entitled to request the Organization to set aside any obligations under Chapter V, and that the Organization should be authorized to set aside such obligations, in the event of any situation arising, whether or not caused by action by another member, which would nullify or impair any object of the Charter. If a member is adversely affected by obligations being set aside, it should be entitled to withdraw from the Organization on short notice.

(*b*) Under Article 30 of the United States Draft Charter a member can be authorized by the Organization to suspend the application to another member of obligations under Chapter V only in the event of the second member being found

to have taken some action (whether or not in conflict with Chapter V) which nullified or impaired an object of Chapter V. Under the revision any action by a member or the development of any situation, which impaired or nullified any object by the Charter (including any object set forth in Chapter III (Employment)) can be an occasion for the lodging of a complaint with the Organization. The Organization can make recommendations to the members concerned and, in serious cases, release any member (and not merely the complaining member as originally) from its obligations under Chapter V. Members adversely affected by the suspension of obligations on the part of another member are entitled to withdraw from the Organization on short notice.

(c) Two types of cases will illustrate the kind of action which may be permitted under the revision (Article 30) but which is precluded under the Article as drafted in the United States Draft Charter.

(i) A member may seek, and obtain from the Organization, a release from its obligations under Chapter V on the ground that its economy is suffering from deflationary pressures caused by the lack of effective demand for its goods from abroad (possible impairment of the objects of Chapter III). In such cases it is contemplated that the Organization, before granting any such release, will consult with the Economic and Social Council of the United Nations or with other inter-governmental organizations, to determine whether some other remedial action is not open to the member seeking the release.

(ii) A member importing a particular product may be released from appropriate obligations under Chapter V in order to adjust competitive conditions between two exporting countries (for example, in cases in which one of the exporting countries is deliberately exploiting substandard labour contrary to the objectives of Chapter III.) Also, the request for such a release may be made by one of the exporting countries (in the example above the exporting country suffering from unfair competition caused by sub-standard labour in the other exporting country) rather than by the importing country.

5. Territorial Application of Chapter V—Customs Unions—Frontier Traffic

(a) The Preparatory Committee was in agreement that the provisions of the Charter regarding trade barriers should apply to each of the customs territories under the jurisdiction of members, that an appropriate exception to these provisions should be made for advantages accorded to facilitate frontier traffic, for advantages incident to the formation of a customs union and for new preferential arrangements approved by the Organization under paragraph (2) Article 66 and that suitable definitions of customs territories and customs unions should be included in Chapter V.

(b) In addition to certain drafting amendments, the following changes were made in Article 33 of the United States Draft Charter:

(i) That Article provides that Chapter V shall not prevent "the union for customs purposes of any customs territory and any other customs territory." Under the revision this exception extends to "*the formation of* a union for customs purposes, etc." thus permitting measures which in fact represent a transitional stage towards a customs union.

(ii) A new paragraph has been added which recognises that new preferential arrangements (for example those of a regional character) may in exceptional circumstances be justified and make it clear that the Organization will be authorized to approve such arrangements under paragraph (2) of Article 66 of the Charter.

(c) Two delegates made reservations with regard to preferences of regional character. One of them stated that such preferences have an intrinsic value by themselves and should not be subject to the procedure provided in paragraph (2) of Article 66.

6. Submission of Report on Procedures for Proposed Multilateral Trade Agreement Negotiations

(a) The Preparatory Committee has prepared a report setting forth procedures to be followed in connection with the negotiations regarding tariffs and preferences to be conducted among its members pursuant to Article 24 of the Charter and in accordance with its resolution of November 26, 1946.[8]

(b) It is believed that the text of this report is largely self-explanatory. It may be noted, however, that the paragraph, which points out the importance of avoiding new tariff measures which would tend to prejudice the proposed nego-

[8] See Annexure 7.

tiations, is not, of course a legally binding obligations such as might prevent countries from introducing tariff changes regarded as urgent.

(*c*) With regard to the proposal in the report that the tariff agreement among the members of the Preparatory Committee should be unilateral in form and in legal application, one delegate considered that bilateral tariff agreement or agreements limited to a small group of countries the benefits of which are generalized under the operation of the most-favoured-nation clause would be preferable because they might be more easily revised when necessary.

SECTION B. GENERAL COMMERCIAL PROVISIONS (EXCEPT MOST-FAVOURED-NATION TREATMENT)—EXCEPTIONS

1. A substantial degree of agreement among the members of the Preparatory Committee was reached on questions of the principle underlying these provisions. However, as was to be expected, there were numerous differences of opinion, and a number of reservations were made on account of national variations in the practice of detailed administration.

2. Complete reconciliation of views was not possible to the extent that agreed texts for insertion in the Charter could be prepared within the time at the disposal of the Preparatory Committee. A greater degree of unanimity might have been possible if more time had been available. In addition many of the delegates' suggestions were merely drafting points and it was felt that these should be dealt with by the Drafting Committee.

SECTION C. QUANTITATIVE RESTRICTIONS AND EXCHANGE CONTROL

1. General Elimination of Quantitative Restrictions

(*a*) There was wide agreement with the proposal for a general rule against the use of import and export restrictions and prohibitions, the rule being subject to exceptions permitting the use of restrictions in specified circumstances and under specified conditions.

(*b*) The Preparatory Committee agreed that during a post-war transitional period it should be permissible to use such restrictions to achieve the equitable distribution of products in short supply, the maintenance of war-time price control by countries undergoing shortages as a result of the war, and the orderly liquidation of temporary surpluses of government-owned stocks and of industries, which were set up owing to the exigencies of war, but which it would be uneconomic to maintain in normal times. These last two exceptions would be subject to consultation with other interested members and all these exceptions would be limited to a specified post-war transitional period, which might, however, be subject to some extension in particular cases.

(*c*) There was wide agreement for an exception to the general rule against export restrictions or prohibitions so as to enable a country to take temporary action to relieve critical shortages of foodstuffs or other essential products. There was also wide agreement for an exceptional use of restrictions to apply standards of classification and grading of commodities in international commerce, subject to safeguards against their misuse for the purpose of giving disguised protection.

(*d*) Consideration was given to the suggestion that there should be an exception permitting import restrictions on agricultural or fisheries products to accompany measures restricting the domestic production or sale of like products and to remove a temporary domestic surplus by means which involved selling that surplus at prices below the current market price to certain groups of domestic consumers. There was wide agreement for the view that a clause on these lines was desirable but two delegates proposed that, in order to give similar protection to agricultural or underdeveloped countries, the exception should not be confined to agricultural and fisheries products. One delegate, on the other hand, took the position that the exception should cover only agricultural products. There was wide agreement for the view that any supplies of the product which were en route at the time at which public notice was given of the restrictions should not be excluded, though they might be counted against any quotas in the importing country. It was generally agreed that this point should be covered in this Article unless it were already adequately met in Article 21.

(*e*) It was suggested that restrictions imposed under this exception should not be imposed on seasonal commodities at a time when similar domestic products were not available and it was generally agreed that this suggestion might usefully be further considered at the Second Session of the Preparatory Committee.

(*f*) There was wide agreement for the view that restrictions on imports, imposed to match a restriction on domestic production, should not be such as to reduce the proportion of imports to domestic production below the level which might otherwise have been expected to rule, it being necessary to judge the situation not only in the light of the position at a previous period but also in the light of any changes in conditions which might have occurred since that date. The view was, however, expressed that such a rule might weigh unduly on the domestic producers, since the exporters in other countries might be able more readily to find alternative markets.

(*g*) The suggestion was put forward by some delegates that the exception in the case of agricultural products should be widened by permitting restrictions on imports without restrictions on home production so as to maintain domestic prices at a level sufficient to cover domestic costs of production or so as to enable a domestic surplus to be cleared. It was suggested that this could be accomplished by deleting the last three sentences of sub-paragraph (2) (*c*) of Article 25. However, it was felt by other delegates that such proposals would extend the scope of the exception to an undesirable degree.

(*h*) Some delegates put forward the suggestion that the wording of the exception in the case of agricultural products should be changed so that the words "for instance" would be inserted after the words "to remove a temporary surplus of the like domestic product". Other delegates felt that this suggestion would permit an undesirable expansion of the exception and, therefore, opposed the suggestion.

(*i*) There was general agreement that restrictions or prohibitions on private trade might be imposed in order to protect the position of state-trading enterprises operated under other articles and that import or export quotas imposed under inter-governmental commodity agreements concluded under the Charter might be used.

(*j*) The suggestion was also made that it should be permissible to use import restrictions, under proper safeguards, as an antidumping measure in those cases of intermittent dumping in which import duties did not provide a suitable instrument of control. After consideration it was generally agreed that as far as the establishment of new industries are concerned, the position should be sufficiently covered by the provisions of Chapter IV. In respect of the threat of intermittent dumping to established industries, there was wide agreement with the view that the position was probably already adequately covered under Article 34 but one delegate remained uncertain whether this was in fact the case.

(*k*) It was suggested that export restrictions should be permitted for the preservation of scarce natural resources even if there were not restriction on domestic consumption, as required under paragraph *j* of Article 32 of the United States Draft Charter. While it was recognized that there might be cases in which such action would be unobjectionable, the view was widely expressed that such an exception, unless subject to sufficient safeguards, might unduly restrict access to raw materials. It was generally agreed that the point might usefully be further examined at the Second Session of the Preparatory Committee.

(*l*) It was suggested by one delegate that restrictions on exports should be permissible for the safeguard of living standards, for the facilitation of industrial balanced development of the national economy, and that import restrictions should be permissible for the enforcement of governmental measures to regulate domestic production, distribution and consumption so as to maintain a dynamic equilibrium between the diverse economic activities of a nation in the process of industrialization. After discussion of this suggestion, there was wide agreement in the Preparatory Committee that it was already adequately covered in the provisions of Chapter IV and by the proposals made with regard to the use of import restrictions under Article 26 to safeguard the balance of payments.

(*m*) Some delegates announced that, because they thought the procedure laid down in sub-paragraphs (3) (*a*) and (*c*) of Article 13 of Chapter IV (Industrial Development) needed further examination, they might propose an addition to paragraph (2) of Article 25 to include another exception in the following terms: "Import restrictions for the purpose of economic development as a protective measure provided that they are less restrictive in their effect than other forms of protection and provided that they are in conformity with the criteria laid down for the purpose by the Organization." Other delegates, however, considered that the procedure laid down was appropriate.

(*n*) The Preparatory Committee considered the question of the treatment of certain existing preferential arrangements which were established under international agreements but not effected by the normal method of a difference in

rates of duty. In these special circumstances it is recommended that any such arrangements remaining after the negotiations to commence on 8 April, 1947 should be dealt with by a provision in a protocol to the Charter or (pending the conclusion of the Charter) to the General Agreement on Tariffs and Trade to the effect that the member applying these arrangements shall be entitled to continue them or equivalent measures, pending either:

(i) an arrangement under Chapter V, if the members concerned desire that the product should be made the subject of such arrangement, or

(ii) some other arrangement regarding the matter between members concerned.

(*a*) It was agreed that only a very limited number of commodities fell under this heading and that the countries concerned should establish the facts about them so that the above recommendation could be taken into account in the forthcoming negotiations. It was further recognized that the concessions or lack of concessions in respect of the items concerned would, for purposes of assessing the results of the negotiations, stand on the same footing as concessions or lack of concessions in respect of particular tariff or preference items.

2. Restrictions to Safeguard the Balance of Payments

(*a*) The Preparatory Committee considers that it should be permissible for a country to restrict imports when such restriction is necessary to safeguard its external financial position, particularly in view of the fact that in many cases these will be domestic employment, reconstruction, development or social policies which result in increases in the demand for imports. It was recognized that in many cases policies of internal reconstruction and development might be an essential factor in restoring equilibrium to a country's balance of payments on a sound and lasting basis.

(*b*) Consideration was given to the best method of ensuring that such a safeguard should be available for the protection of a country's external financial position without giving freedom for the unnecessary use of import restrictions. It is thought that countries should undertake to observe certain principles in the use of such import restrictions, and that, since the fundamental objective is to safeguard a country's external financial position, these principles should be based upon movements in the country's monetary reserves. Import restriction, it was suggested, should only be newly imposed or intensified in so far as was necessary to stop or to forestall the imminent threat of a serious decline in monetary reserves or, in the case of a member with very low monetary reserves, to achieve a reasonable rate of increase in its reserves.

(*c*) There are, however, many factors to which due regard must be paid in interpreting any such rules. There may be special non-recurrent movements of funds affecting a country's reserves, a country may have special credits outside its monetary reserves which it might be expected to use to a proper extent and at a proper rate to meet a strain on its external position, a country which has high reserves may, nevertheless, have high future commitments or probable drains upon its resources to meet in the near future. All such factors will have to be taken into account in interpreting movements in a country's reserves.

(*d*) It was generally agreed that there should be an undertaking to remove or to relax restrictions on the same general principles, as a country's external financial position improved.

(*e*) It was also generally agreed that, in order to avoid unnecessary damage to the commercial interest of other members, import restrictions imposed to safeguard a member's external financial position should not be carried to the point of total exclusion of any particular class of goods.

(*f*) Consideration was given to the relations which should exist between members and the Organization in order to ensure that members should, on the one hand, not be able to abuse the application of import restrictions on these grounds, but should, on the other hand, have some certainty that they could apply them when necessary. It is considered that for these purposes, there will need to be arrangements for consultation between the members and the Organization, for complaint to the Organization, and ultimately for the Organization to recommend the withdrawal or modification of restrictions if these are being improperly applied.

(*g*) In this whole process of consultation, review and recommendation, the Organization, it is recognized, will have to keep in the closest contact with the International Monetary Fund. The Fund is the specialized agency which deals

with the financial aspects of balance of payments problems and the use of import restrictions to safeguard the external financial position of members can only be properly considered by the Organization if, at every stage, it invites the Fund to participate in its consultations.

(*h*) It was widely agreed that a first stage in this process should be consultation as to the nature of a country's 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. It is thought that a member, which was considering the imposition of restrictions for the first time, should as a general rule undertake such consultations before imposing the restrictions and, in cases in which previous consultation is impracticable, should undertake such consultations as soon as possible after imposing the restrictions. The Organization should, it is generally thought, be able to initiate consultations with any member which is already imposing restrictions on these grounds, and should, in any case, always initiate such consultations with any member which has found it necessary substantially to intensify its restrictions. It is also thought that the Organization should, within two years of its institution and subsequently maintained on the grounds of safeguarding members' external financial positions.

(*i*) Many members, which may find it necessary to impose restrictions to safeguard their external financial position, may wish to obtain some security that the restrictions which they are applying or intend to apply will not be challenged or that if their external position becomes sufficiently difficult, they will be able to impose restrictions which will not be challenged. For this reason it was generally agreed, a member should have the right to obtain the Organization's previous approval of restrictions which it was already applying or intending to apply, so that it could not be challenged by another member when it applied them. It is generally considered that such previous approval should relate to the general extent, degree and duration of the restrictions and should not prevent another member thereafter from bringing a complaint to the Organization that the restrictions were being applied in a manner which unnecessarily damaged its commercial interests.

(*j*) Similarly, a member may seek the previous approval of the Organization, not in relation to any actual restriction which it is already applying or intending to apply, but in relation to the contingent future conditions which, if they occur, will justify it applying restrictions. For example, it may be agreed between the member and the Organization that the member cannot in any circumstances during an agreed period ahead be reasonably expected to allow its monetary reserves to fall below an agreed figure.

(*k*) The Preparatory Committee considers that it should be open to any member to bring a complaint to the Organization that another member is applying restrictions when they are unnecessary to safeguard its external financial position or that it is doing so in a way which is unnecessarily damaging the commercial interests of the complaining member. In this case the Organization, if it is satisfied that the complaining member has made out a prima facie case that its commercial interests are adversely affected, should consider the complaint. It should have power after consultation with the International Monetary Fund to recommend the withdrawal or modification of the restrictions and if the member in question fails to withdraw or modify them accordingly, such other members of the Organization will be released from such obligations towards the member in question as the Organization may specify. The Organization should, however, not be able to recommend the withdrawal or general relaxation of restrictions in so far as it had given previous approval for them, nor should it be able to do so on the grounds that the member's external financial difficulty could be avoided by a change in the member's domestic employment, reconstruction, development or social policies.

(*l*) It was generally agreed that a member imposing restrictions on balance of payments grounds should be permitted to select imports for restriction in such a way as to promote its domestic employment, reconstruction, development or social policies, in accordance with its own judgment as to the essentiality of the products concerned.

(*m*) The Preparatory Committee agreed that if there were a persistent and widespread application of restrictions on these grounds, there should be a procedure whereby the Organization in consultation with the International Monetary Fund should initiate discussions with members to consider whether other measures might not be taken by the countries with favourable or unfavourable balances of payments or by the Economic and Social Council of the United Nations or any appropriate intergovernmental organization to remove the underlying disequilibrium.

(*n*) The Preparatory Committee is of the opinion that the principles and procedures for restricting imports under private trade to safeguard a member's external financial position should be applied mutatis mutandis to the restriction (to a greater extent than would otherwise be permissible) of imports by a state-trading organization. It should, however, be provided that the disclosure of information, which would hamper the commercial operations of such a state-trading organization, would not be required.

(*o*) There was general agreement for the view that in the early years after the war the Organization, in carrying out its functions under this Article and under Article 28, should pay due regard to the difficulties of post-war adjustment with which the members would be confronted in varying degrees.

(*p*) It is to be noted that under sub-paragraph (2) (*a*) of Article 26 a country can apply quantitative import restrictions to anticipate the imminent threat of a serious decline in its monetary reserves. Moreover it is there suggested that in interpreting this principle due regard should be had to any commitments or other circumstances which may be affecting a country's needs for reserves. It follows that a country, which is threatened with a serious decline in its reserves and which has heavy external payments to meet in the near future, can protect its external financial position by import restrictions.

(*q*) In paragraph (1) of Article 26 it is recognized that "members may need import restrictions as a means of safeguarding their external financial position . . . particularly in view of their increased demand for the imports needed to carry out their domestic . . . development policies" and in sub-paragraph (3) (*c*) of the same Article it is laid down that "the Organization . . . shall not recommend the withdrawal or general relaxation of restrictions on the grounds that the existing or prospective balance of payments difficulties of the member in question could be avoided by a change in the member's domestic . . . development . . . policies". Thus it is clear that a member cannot be required to modify its domestic development plans on the grounds that they impose a strain on its balance of payments and thus make control of imports necessary.

(*r*) In paragraph (1) of Article 26 it is expressly laid down that "a Member may select imports for restriction on grounds of essentiality in such a way as to promote its domestic . . . development . . . policies", so that a member can, if necessary, restrict the import of consumer goods without restricting the import of capital goods.

(*s*) This Article will, however, prevent a member from applying restrictions if its foreign exchange resources are sufficient for it to finance all types of imports. In other words, the member will be permitted under Article 26 to restrict only to the extent necessary to safeguard its monetary reserves. Up to this point it will have to admit imports of one class or another. Members will also be under an obligation not to apply any restrictions of a selective character in a manner which *unnecessarily* damages the commercial interests of other members.

(*t*) Many of the problems which have been examined in connection with this Article and with Articles 28 and 29 are necessarily of very direct concern to the International Monetary Fund and, to a less extent, to the International Bank for Reconstruction and Development. Trade restrictions applied to safeguard external financial resources will inevitably be of common interest to the International Trade Organization and to the International Monetary Fund. In particular, since it is generally agreed that trade restrictions should be avoided whenever possible, the question arises of the possibility of alternative means under the procedures of the Fund and the Bank for meeting a disequilibrium in balances of payments.

(*u*) In considering these problems the Preparatory Committee has been much helped by the benefit of the views of the observers from the Fund and the Bank. It is generally felt that it would be of great assistance to the work of the Preparatory Committee if the Fund and the Bank could be invited to study Articles 25, 28, and 29 with a view to putting their considered opinions on these issues before the Second Session of the Preparatory Committee.

(*v*) One delegate suggested to the Preparatory Committee that there should be amendments providing for (*a*) broadening the criteria under which restrictions could be imposed for balance-of-payments reasons, (*b*) eliminating the provision for complaints by members against such restriction maintained by other members, and (*c*) the use of quantitative restrictions as a means for creating favourable conditions for the industrial development of an economically undeveloped country. It was generally agreed that these proposals to some extent had been met in Chapter V and in Chapter IV and that further changes would expand the use of quantitative restrictions too far.

5. Non-discriminatory Administration of Quantitative Restrictions

(*a*) The Preparatory Committee considers that there should be a general rule for non-discrimination in the use of quantitative restrictions, but that there are certain necessary exceptions to this general rule.

(*b*) In applying the principle of non-discrimination to import restrictions, it is thought that the following represent a desirable set of principles which should also apply to tariff quotas:

(i) Wherever possible a global quota should be fixed in advance for the importation of the product in question;

(ii) Where (i) is not practicable, restrictions might be applied by import licenses without a global quota;

(iii) Whether issued within a global quota or without a global quota, import licenses or permits should, in general, not tie the import to a particular source of supply;

(iv) Where (iii) is not practicable, the restrictions might take the form of a quota allocated among the various sources of supply. In this case the general principle should be to allocate the quotas on commercial principles such as price, quality and customary sources of supply. These commercial principles might be applied in principle in either of two ways—firstly, agreement might be sought between the exporters who have a substantial interest in supplying the product, and secondly, where this course is not reasonably practicable, reference should be made to shares in a previous representative period, due account being taken of special factors which may have affected the trade in the product. The member should make the initial decisions about the shares of such quotas but should be prepared to enter into consultations about adjustments;

(v) No conditions should be imposed such as would prevent any member from making full use of its share in any quota, subject to importation being made within any prescribed period to which the quota may relate.

(*c*) It was generally agreed that members should undertake to supply adequate information about the administration of their import restrictions. In cases in which import licences are used, the Preparatory Committee considers information should be supplied, at the request of any member having a substantial interest in the trade, about the administration of the licences and about the licences granted, but there should be no obligation to reveal the names of importing or supplying firms. Where quotas are fixed, public notice should be given in advance of the size of the quota and where the quota is allocated among supplying countries all members having an interest in supplying the product should be given prompt notice of the shares of the various countries in the quotas.

(*d*) It was generally agreed that there must be the following exceptions from the general rule of non-discrimination in the application of quantitative restrictions.

(i) Members should not be precluded from the imposition of restrictions which have the equivalent effect of the exchange restrictions which a country could impose under Section 3 (*b*) of Article VII of the Articles of Agreement of the International Monetary Fund (scarce currencies clause).

(ii) A group of territories, which have a common quota in the International Monetary Fund, should be able to impose restrictions against imports from other countries in order to protect their common monetary reserves.

(iii) Members should be able to assist, by measures not involving a substantial departure from the general rule of non-discrimination, a country whose economy has been disrupted by war but this freedom should only extend until 31 December 1951.

(iv) Some element of discrimination in import and export restrictions may be needed in order to carry out inter-governmental commodity agreements under the commodity policy provisions of the Charter or in order to apply the restrictions, which have been suggested for the post-war transitional period to ensure an equitable distribution among consuming countries of products in short supply.*

(*e*) A more difficult problem arises in the treatment of inconvertible currencies. It is thought that the objective is to establish multilateral trading over as wide an area as possible and that for this purpose it is desirable that currencies should become convertible as soon as is safely possible. But so long as some

* See sub-paragraph (1) (*b*) and (*d*) of Section C.

currencies remain inconvertible there is difficulty in reconciling the full application of the principle of non-discrimination with the courses of action which are imposed upon members by their external financial situations. This difficulty is of course fully recognized, as far as exchange restrictions are concerned, in the provisions of Article XIV of the Articles of Agreement of the International Monetary Fund. The problem here is to make appropriate provision for this difficulty in the trade field.

(*f*) The nature of the difficulty may be conveniently expressed by considering the position of country A, which has a favourable balance of payments, with country B which has an inconvertible currency. This favourable balance can be settled only by

(i) Accumulation by A of inconvertible balances of B's currency or by a loan to B in A's currency; or

(ii) an increase in A's imports from B; or

(iii) a reduction of A's exports to B.

(*g*) If A is unable or unwilling to make the appropriate loan under (i) and if the cost of B are too high to enable A to accept B's exports without infringing the rule of non-discrimination, the only possibility is a reduction in A's exports to B. It was argued that A can always avoid this difficulty by selling the exports, which would otherwise have gone to B, to countries with convertible currencies and there was general agreement that where the majority of countries had convertible currencies, this would normally be the case. It was argued, on the other hand, that countries which normally conduct a large proportion of their trade with countries whose currencies are inconvertible, might be obliged to restrict their trade substantially because of the limited import capacity of countries with convertible currencies, and that consequently the additional purchase of imports from country B, even on a discriminatory basis, might be less restrictive of world trade than the full application of non-discrimination. It was furthermore argued that any provisions made to deal with this general problem should also cover the problem of balances of inconvertible currencies accumulated before the entry into force of the Charter.

(*h*) It was agreed that in any case members should be entitled to attach such conditions to their exports as would be necessary to ensure that an exporting country would receive for its exports its own currency or the currency of any member of the International Monetary Fund specified by the exporting country and thus avoid the danger of being, in effect, compelled to accumulate balances of inconvertible currency.

(*i*) It is considered that there must be some provision also to deal with the corresponding import problems, but it is felt that there are serious dangers in a wide exception from the rule of non-discrimination even during the post-war transitional period. If such a period is at all prolonged, it would permit the establishment of bilateral patterns of trade and discriminatory practices generally which would effectively prevent the development of multilateral trade, a central objective of the Charter. It was argued that such arrangements would tend to become self-perpetuating and that their possibility would, in effect, delay the achievement of sound and lasting equilibrium in the balances of payments of the countries with inconvertible currencies and would thus postpone for an indefinite period their ability to make their currencies convertible. On the other hand it was argued that if countries with inconvertible currencies had to face the full rigour of international competition, they would be forced to restrict their imports from all sources to a degree which would seriously impair their prospects of recovery. It was further contended that the existence of some provision to enable countries with convertible currencies to apply discriminatory restrictions in special circumstances would encourage countries with inconvertible currencies to take the risk of accepting convertibility at an earlier stage then they would have otherwise been prepared to do.

(*j*) It was generally agreed that the difficulty may be solved by permitting discriminatory import restrictions under the two following conditions, both of which would have to be fulfilled:

(i) that the discrimination should increase the member's total imports above the maximum level which would be possible in the absence of the discrimination. The intensity of the import restrictions, which a member is permitted to impose under Article 26, is determined by the pressure upon its monetary reserves. This fixes the amount of imports which it can afford from countries with convertible currencies. The purpose of this condition is to ensure that a member will purchase as much as it can afford from these sources, and that it will not be

permitted to discriminate unless this would enable it to secure additional imports from countries with inconvertible currencies. It would thus be impossible for a member to decrease its total imports from countries with convertible currencies by discriminatory restrictions.

(ii) That the discrimination should either correspond to exchange restrictions permissible under the Articles of Agreement of the International Monetary Fund or should carry with it the approval of the Organization in agreement with the International Monetary Fund, which is the inter-governmental organization which is competent in this field. The member would not be entitled to impose discriminatory import regulations, which did not have equivalent effect to exchange restrictions permitted to the member under the Articles of Agreement of the International Monetary Fund, or under the terms of a special exchange agreement between the member and the Organization.[10] If a member were not imposing exchange restrictions, it would be able to impose discriminatory import restrictions in special circumstances only with the prior approval of the Organization in agreement with the Fund.

(*k*) In view of the advantages, which may be expected to accrue to the trade of all countries from the other provisions of the Charter, it is generally considered appropriate that the discriminatory element in any trade restrictions applied under this provision (or exchange restrictions having equivalent effect), should, from the outset, be liable to be withdrawn or modified if the Organization, after consultation with the International Monetary Fund, finds that they were being applied inconsistently with the exceptions provided under this Article or in a manner which discriminated unnecessarily against the trade of another member. It should, however, always be possible for a member to seek the Organization's prior approval for its action and in this case it would not be open to challenge to the extent to which such approval was given. Where the member is not imposing exchange restrictions, this prior approval would be obligatory.

(*l*) It was suggested that if there were an abrupt or serious decline in effective demand by one or more members, the imposition of non-discriminatory import restrictions under Article 26 by other members might in some cases be more injurious to world trade than discriminatory restrictions, and that provision should be made in this Article for permitting such discriminations, if the Organization considered that this general situation existed and warranted their application. After consideration it was agreed that the Organization would have adequate powers under the revised Article 35, taking into account Article 8 of Chapter III of the Charter (Employment Provisions), to meet this contingency.

(*m*) A main objective of the Organization is to achieve the earliest possible elimination of all discriminations which restrict the expansion of world trade. The difficulties which the Article is designed to meet may be hoped to narrow very considerably, as an increasing number of members accept the obligations of Section 2, 3 and 4 of Article VIII of the Articles of Agreement of the International Monetary Fund. It is, therefore, generally agreed that the provisions of sub-paragraphs (1) (*d*) (iii) and (iv) of this Article should be reviewed when three-quarters of the members of the Organization have made their currencies convertible, or in any event, not later than 31 December 1951.

4. Exchange Arrangements

(*a*) The problem of foreign exchange arrangements in relation to the Organization is a question of great importance, since commercial obligations can be fundamentally affected by such matters as exchange control, exchange depreciation, multiple exchange rates, etc. The International Monetary Fund is the specialized agency, which has been created to deal with these matters, and it is desirable as far as possible to avoid overlapping functions between it and the Organization. Where trade matters and exchange matters inevitably overlap, it is desirable that there should be the maximum consultation and cooperation between the Fund and Organization.

(*b*) The Preparatory Committee is of the opinion that members should undertake not to seek by exchange action to frustrate the purposes of this Charter, nor to seek by trade action to frustrate the purposes of the Articles of Agreement of the International Monetary Fund.

(*c*) The problem would be much simplified if all the members of the Organization were also members of the International Monetary Fund. No decision was reached on the question of requiring common membership, however, as some delegations felt it may well be necessary to allow freely for independent membership of the Organization and of the Fund.

[10] See sub-paragraph 4 (e) of this Section.

(*d*) Consideration was, therefore, given to the question whether special provision should not be made for a country which wished to become a member of the Organization without becoming a member of the Fund. It is generally recognized that some such provision may prove to be necessary, but the Preparatory Committee considers that examination of this issue can usefully wait until the probable membership of the Organization and of the Fund become clearer. Pending this further examination, Article 29 has been expressed in a way which implies that members of the Organization would in general be expected to be members of the Fund, but that means could be provided for non-members of the Fund to join the Organization.

(*e*) It is thought that if the general principle were adopted that members of the Organization should also be members of the Fund, opportunity must nevertheless be left for a member of the Organization to exercise the right, which it has under the Articles of Agreement of the International Monetary Fund, to withdraw at short notice from the Fund—a right which would be compromised if a member of the Organization were required to be a member of the Fund, and were not free to withdraw from the Organization at short notice.

(*f*) It is generally considered appropriate that any members of the Organization, which is not also a member of the Fund, should not have full freedom in exchange matters, since by exchange arrangements it might frustrate its trade obligations. There is wide measure of agreement for the suggestion that such a member should enter into a special agreement with the Organization in exchange matters, which would provide that the purposes common to the Organization and the Fund would not be frustrated as a result of action in exchange matters by the member in question. In such cases the Organization would accept the opinion of the Fund whether action by the member in question in exchange matters were permissible under the terms of the special exchange agreement and the member would undertake to provide the Organization with the information necessary for reaching such a decision.

SECTION D. SUBSIDIES

1. Subsidies on Primary Products

(*a*) In general the intention of Article 25 of the United States Draft Charter is to give members, whose interests are prejudiced by subsidization, the right to a full international consideration of their case, to oblige subsidizing members to participate in such consideration and to provide for limiting subsidization so that its prejudicial effects may be reduced.

(*b*) As concerns primary products, the Article recognizes that, when trade is distorted by the special difficulties referred to in Chapter VI of the United States Draft Charter. The procedures of that Chapter rather than those of this Article should apply.

(*c*) In view of the fact that export subsidies are recognized as being more likely to distort trade than so-called "domestic" subsidies, the Article looks toward the early elimination of the former in most cases but merely to the limitation of the latter. Nevertheless it is emphasized that the Article envisages gradual rather than sudden modifications of subsidies in cases where such modification calls for substantial economic and social adjustment in the territories of affected members.

(*d*) The points considered by the Preparatory Committee in preparing a revision of the text of Article 25 of the United States Draft Charter are indicated below:

(i) Wherever the Draft Charter has words such as "injury to the trade of a member", it was thought advisable to say "prejudice to the interest of a member". It was felt that this wording would in practice facilitate application.

(ii) The word "limiting" in the last sentence of paragraph (1) of the revision is used in a broad sense to indicate maintaining the subsidization at as low a level as possible, and the gradual reduction in subsidization over a period of time where this is appropriate.

(iii) One delegate suggested that the Drafting Committee be requested to consider adding, after the words "imports of such product" in the first sentence of paragraph (1) of the revision, the words "or of closely competitive products". Another delegate declared that he was not in a position to judge whether such a request should be made.

(iv) It is suggested that the Drafting Committee consider whether it is necessary to retain the cross reference clauses beginning, "Except as provided" at the beginning of the same paragraph.

(v) The words added at the end of the second sentence of paragraph (2) of the revision are designed to make it clear that payments to producers from the proceeds of domestic taxes from which export products are exempted are looked upon as "domestic" rather than export subsidies. The added words, and the sentence to which they are attached, are essentially explanatory of part of the first sentence of paragraph (2).

(vi) The substitution of the phrase "a complete analysis of the practices in question and the facts justifying them" for the words "an explanatory statement", in the fourth sentence of paragraph (2) of the revision is associated with a discussion of possible results of the determination mentioned in the following sentence. It is felt that under certain circumstances some export subsidies might be justified as being consistent with the objectives of the Charter.

(vii) It was considered whether the words "the like product" in the first sentence of paragraph (2) could be construed in such a way as to permit escaping the provisions of this paragraph in cases when the exported product differs slightly from a product sold in the domestic market. It was decided, however, that this would be a case falling under the terms of Article 35 and thus that the measure, whether or not in conflict with the terms of Chapter V of the Charter, would imply nullification or impairment of the Chapter. The subsidizing member would, therefore, be obliged to give sympathetic consideration to the views of other interested members and, assuming good faith, the problem could probably be solved. The implications of qualifying words, such as "the like or similar product," might be considered by the Drafting Committee.

(viii) Certain delegates felt that the period of three years prescribed in the third sentence of paragraph (2) of the revision for giving effect to the provisions of that paragraph was unduly long. It was agreed that the question of shortening this period should be taken up at a later stage, after the countries had had the opportunity of considering the effect of such a shortening on their domestic legislation.

(ix) One delegate made the following reservation in regard to paragraph (2): "The adoption or maintenance of subsidies or similar measures to promote the production or exportation of certain special commodities in a member country which has suffered from a chronic adverse balance of payments should be allowed until such a time as its equilibrium in the balance of payments will have been actually attained, when the question of such measures may be reconsidered through consultation by the countries concerned." This delegate also suggested that paragraph (3) of the revision should be amended so that "the share of any such special export in world trade, whether or not acquired as a result of the use of subsidies or similar measures, should not be subject to limitation by its share in world trade during any previous representative period, except when it is proved to be part of a burdensome world surplus." Certain delegates, however, advised against these amendments because of the adverse effect which such subsidies would have upon the trade of other countries.

(x) Paragraph (3) would render it possible for interested members, in consultation with the Organization, to operate a domestic stabilization scheme for a primary product if the stabilized domestic price at times exceeds the export price and if, through effective production controls or otherwise, the scheme operated so as not to prejudice the interest of members. Some delegates thought that this was implicit in paragraph (2) and that the explicit exemption under paragraph (2) might render it more difficult to apply paragraph (2) so as to cover other legitimate exceptions. Accordingly empty square brackets were added at the end of the new paragraph to indicate that suggestions may be forthcoming to cover other exceptional cases.

(xi) One delegate raised the question of whether the comparison made in paragraph (3) should not be between the export price and the price paid to domestic producers, and requested that a later opportunity be given to consider this matter.

(xii) Sub-paragraph (4) (c) of the revision indicates that the consultative procedure of Chapter VII with reference to primary products in the case of which special difficulties may arise, may be applied when subsidies on such products call for determination by consultation under the terms of paragraph (1) or (2). In this connection and in relation to the provisions of paragraph 8 of the United States Draft Charter, it is suggested that the Drafting Committee consider Article 30 in connection with Chapter VII and

with paragraph (6) of Article 66, with a view to simplifying the texts in question. They are intended to provide firstly, a uniform type of consultative procedure for dealing with primary commodities in the case of which special difficulties may arise either in the initial period of transition or thereafter, and secondly, an adequate consultative procedure for dealing with non-primary products according to the general intentions of Article 30 expressed in the opening sentence of this Section.

(xiii) One delegate announced that he would reserve his position regarding the provisions of sub-paragraphs (4) (*b*) and (*c*) of the revision.

(xiv) One delegate expressed the opinion that the Drafting Committee should consider the provisions in Article 11 of the United States Draft Charter in connection with Article 30. He felt specially that Article 11 should, in the same way as sub-paragraph (2) (*a*) of Article 25 does for quotas, provide for the legitimation of subsidies, if these were accepted after consultation by interested members.

2. Subsidies on Manufactured Goods.

(*a*) The question of subsidies on manufactured goods was studied in the light of a document submitted by a delegate when a proposal that the existing provisions of the United States Draft Charter be altered so as to provide leeway for the use of measures to assist developing industries under certain circumstances was being discussed.

(*b*) It is pointed out in this document that Article 25 of the United States Draft Charter "would permit, without serious qualification, the use of governmental subsidies for the purpose of establishing and expanding a manufacturing industry." The following requirements laid down in Article 25 in respect of such subsidies, it is stated, are moderate and few:

(i) If the subsidy does not reduce imports, no requirements are made.

(ii) If the subsidy does reduce imports, the only requirement (subject to what is said below) is that it is to be reported to the International Trade Organization together with an indication concerning the probable effect of the subsidy and the reason why it is necessary.

(iii) Even if the subsidy should cause serious injury to international trade, the only requirement is that the members granting it discuss with members, whose interest is seriously prejudiced, the possibility of limiting the subsidy.

In view of these facts no change in the text of the Article on Subsidies on Manufactured Goods as it appears in the United States Draft Charter was considered necessary.

(*c*) One delegate drew attention to the fact that only the richer countries were able adequately to support their industries by means of subsidies.

SECTION E. STATE TRADING

1. Non-discriminatory Administration of State-Trading Enterprises.

(*a*) The provisions of Article 26 of the United States Draft Charter are, on the whole, acceptable to the Preparatory Committee, subject to the following modifications:

(i) It was considered that this Article, in conformity with certain others in that Charter, should be modified so as to refer to goods only. Hence the words "or services" were deleted in the first paragraph.

(ii) In paragraph (1) of Article 31 the words "distribute or produce" in the first sentence have been placed in square brackets because certain delegates considered that it should be possible for a member government to confer exclusive or special privileges upon certain types of enterprise (e. g., for carrying on certain types of manufacture), without at the same time exercising effective control over the trading operations of such enterprises. In order to make their point of view clear these delegates wished to add in square brackets the words "and exercises effective control over the trading operations of such enterprise,". Other delegates, however, considered that in such circumstances it would be proper that the government conferring the exclusive or special privileges should assume the responsibility of exercising effective control over operations affecting the external trade of such enterprise.

(iii) The illustrative examples of "commercial considerations" by which the State-trading enterprises of a member should be guided in fulfilling their obligation of non-discriminatory administration, were supplemented to include "differential customs treatment."

(iv) Attention was paid to the nature of the "specific and detailed information" which the members maintaining a state enterprise was required to provide by the terms of the Charter in order to make possible a determination whether the trading operations of the enterprise fulfilled the requirements of paragraph (1). It was argued that such an enterprise should not be called upon to provide more information than a private enterprise trading under the same or similar conditions. Accordingly, the last sentence of paragraph (1) was amended so as to fall in line with the provisions of Article 35 of the Charter.

(v) Since paragraph 1 of Article 8 of the United States Draft Charter had been amended by deletion of the provisions relating to governmental contracts, it was felt necessary to insert a new paragraph in Article 31 dealing with the subject. A distinction was made as between governmental purchases for resale, which are covered by this paragraph, and purchases for governmental use and not for resale. The discussion on this latter point was prompted by the consideration that in some countries purchases of industrial and other equipment of various types from abroad might well be effected through the medium of state enterprise and that, while it might be difficult in certain circumstances to observe the rule of "commercial considerations" for such purchase, it was at least necessary to provide that the rule of "fair and equitable treatment" should apply but that in applying it full regard should be given to all relevant circumstances. The question was raised whether purchases on the basis of the so-called "tied loans" would be considered to conform with this rule. The view was generally held that a country receiving a loan would be free to take this loan into account as a "commercial consideration" when purchasing its requirements abroad. The position of countries making such "tied loans" was another question.

(vi) Two changes were made in the definition of a state enterprise in the last paragraph of this Article. For greater clarity, the words "directly or indirectly" were deleted and the words "effective control" were substituted for the term "a substantial measure of control".

(vii) It was agreed that when marketing boards buy or sell they would come under the provisions relating to state-trading; where they lay down regulations governing private trade, their activities would be covered by the relevant Articles of the Charter. It was understood that the term "marketing boards" is confined to boards established by express governmental action.

2. Expansion of Trade by State Monopolies of Individual Products

(*a*) The principle underlying Article 27 of the United States Draft Charter, being the counterpart of paragraph 1 of Article 18 of that Charter, is generally acceptable to the Preparatory Committee. The principal changes, which are recommended and which are listed below, serve mainly two purposes—firstly, to provide a more accurate basis for the determination of the "negotiable margins", and secondly, to take into account the special nature of fiscal monopolies.

(*b*) The references to Article 33 of the Charter in the first sentence was provisionally removed.

(*c*) The term "landed cost, before payment of any duty, of such products purchased by the monopoly from suppliers in member states" was substituted for the words "the price at which such product is offered for sale to the monopoly by foreign suppliers," since it is considered that a mere offer does not provide a firm basis for the calculation of the margin. A similar change was made in respect of exports. Moreover, since in certain countries imports by state monopolies are subject to customs duty, it was considered appropriate to choose a definition which, while taking into account all costs up to the moment of entry, excluded duties and other charges (e. g. internal taxes, transportation and distribution). The Preparatory Committee agreed, however, that it would be open to countries to negotiate, if they wished, a margin representing the difference between the total cost of a product (i. e. including internal taxes, costs of distribution and transportation etc. and, where appropriate, profit) and the monopoly's first-hand selling price in the home market.

(*d*) It is considered that, when calculating the margin under (*b*) of Article 27 of the United States Draft Charter, allowance should be made for a margin of profit. That margin, however, should not be so excessive as to restrict the volume of trade in the product concerned. Accordingly the words "a reasonable margin of profit" were added.

(*e*) It was considered appropriate that, in applying the margin determined by negotiation, landed costs and selling prices might be averaged over a recent period of years, and a sentence to that effect was added.

(*f*) The reference to Section C (Quantitative Restrictions) was deleted and the words "subject to the other provisions of this Charter" substituted. A further modification was made so as to permit of account being taken in the case of imports, of rationing of the product to consumers, and in the case of exports, of the quantities available for export.

(*g*) Attention was paid to the special position of monopolies operated for revenue purposes. It was contended that their profits (and consequently the margins between their "landed costs" and selling prices), had to be regarded as a form of internal taxation. A new paragraph was added to cover the case of such monopolies.

(*h*) One delegate wished to reserve his position generally upon this Article.

3. Expansion of Trade by Complete State Monopolies of Import Trade

Although the substance of Article 28 of the United States Draft Charter was not discussed, the Preparatory Committee has decided that it should remain provisionally as it appears.

SECTION F. RELATIONS WITH NON-MEMBERS

The Preparatory Committee considered Article 31 of the United States Draft Charter which is concerned with this subject but decided to leave the question for consideration at a later stage.

CHAPTER IV. RESTRICTIVE BUSINESS PRACTICES

SECTION A. POLICY TOWARDS RESTRICTIVE BUSINESS PRACTICES

1. The Preparatory Committee has not attempted to define precisely what is meant by restrictive business practices but has taken the phrase to mean broadly those practices in international trade which restrain competition, limit access to markets, or foster monopolistic control and thus substitute the decisions of single enterprises or groups of enterprises acting in concert and exercising monopolistic power for the forces of the market in the determination of price levels, volume of production and distribution of products. It was found convenient to refer to the list of such practices in paragraph 2 of Article 34 of the United States Draft Charter, which, though not exhaustive, includes the most common types of such practices.

2. In preliminary exchanges of views it was found on the one hand that some delegates regarded these practices as invariable and automatic barriers to a free and expanding system of international trade and in conflict with the obligations which it was proposed members of the Organization would assume under other chapters of the Charter. On the other hand some delegates perceived considerable advantages in their wise use, particularly in introducing stability in industries requiring large investment and depending mainly on external markets. It was also urged that restrictive agreements were frequently accompanied by exchanges of technical information which facilitated establishment of new industries in the less industrialized countries.

3. It was found, however, that, despite this wide divergence of view on the significance of these practices, there was a unanimous belief that they were capable of having harmful effects on the expansion of production and trade and the maintenance in all countries of high levels of real income and on the other purposes of the Organization, whether, as some felt, by their very nature, or as others maintained, only in their wrongful use. Accordingly it was agreed that all members of the Organization should undertake to take all possible steps within their jurisdiction to prevent restrictive practices having harmful effects on the purposes of the Organization.

4. It was clear to all delegates of the Preparatory Committee that governments would be unlikely to agree in their judgment of the effects of particular practices and that an undertaking of the kind just referred to would leave open the possibility of one member allowing or approving a monopolistic arrangement or practice, which would be felt by another member to injure the purposes of the Organization. Accordingly it was agreed that the Organization should be empowered to receive complaints and to investigate them. It was felt that this was the most important function which the Organization could discharge in this field.

5. It was agreed that the procedure of complaint and investigation should apply equally whether the practices were pursued by private or by public (i. e. government-owned or controlled) enterprises or by a mixture of the two, so far

as agreements are concerned, but the procedure should apply to the practices of single monopolistic enterprises only when these are privately owned. The problem of the public enterprise acting independently should, it is thought, be dealt with under the provisions governing state-trading. Care will have to be taken in any event that ultimately the provisions regarding restrictive business practices and regarding state-trading are in harmony.

SECTION B. PROCEDURE WITH RESPECT TO COMPLAINTS AND CONFERENCES

1. The Preparatory Committee considers that complaints should be received and examined by the Organization whether they come from members or from affected persons, organizations or business enterprises, provided in the latter cases that the responsible government approves the consideration of the complaint by the Organization. The steps, which the Organization should take, should be on the following lines:

(*a*) At the request of a member it should, at its discretion, be free to arrange conferences between members to consider a specific practice which the member feels has or is about to have a harmful effect on the purpose of the Organization.

(*b*) It should consider written complaints, obtain minimum information both from the complainant and from other members concerned and then determine whether a further investigation is necessary.

(*c*) If it is satisfied that there is a prima facie case for further consideration, then it should obtain information from all members which wish to submit such information, and it should afford opportunity for any member and for the commercial enterprises alleged to have been engaged in the practice to be heard by it if they so wish.

(*d*) The Organization should then determine whether the practice complained of has the harmful effect feared and, if so, it should report to all members its findings, requesting them to take action to prevent the continuance or recurrence of the practice and at its discretion recommend specific remedial measures. Each member would, of course, take action in accordance with its own laws and procedures.

(*e*) The Organization should then prepare a report on the case.

SECTION C., STUDIES RELATING TO RESTRICTIVE BUSINESS PRACTICES

1. It was felt that it was necessary that the Organization should give further study to the subject, as it was clear that it was one of extreme difficulty on which there was no unanimity of opinion among the various countries. It is considered, therefore, that the Organization should study types of restrictive practices, and conventions, laws and procedures relevant to these practices. It should obtain information from members to assist it in its studies, and it should be at liberty to make recommendations concerning conventions, laws and procedures so far as these are relevant to the obligations which members will undertake.

2. The Organization should also be empowered to arrange conferences at the request of members for general consultation on the problem.

SECTION D. OBLIGATIONS OF MEMBERS

The Preparatory Committee agreed that members should take all possible steps to prevent commercial enterprises within their jurisdiction from engaging in practices having harmful effects on the purposes of the Organization. Members should also conduct investigations in order to be able to furnish information requested by the Organization in connection with complaints, though they should be free to withhold confidential information affecting national security or production techniques. It was felt, however, that in the obligation requiring members to furnish this information, there should be some provision whereby the legitimate business interests of particular enterprises should be safeguarded as far as feasible from possible injury, which might arise if detailed information were to fall into the hands of their competitors or other private persons. In considering the initiation of action appropriate to their system of law and economic organization members should also take the fullest account of any recommendations made by the Organization following on its investigation of a particular complaint. They should report to the Organization what actions have been taken.

SECTION E. SUPPLEMENTARY ENFORCEMENT ARRANGEMENTS

The Preparatory Committee recognizes that members may co-operate with each other in assisting the enforcement of any provision made by other members in furtherance of the general objectives. There should be no specific obligation on members to take such action, but it should be made clear that they are free to adopt this course if they wish, provided that they notify the Organization.

SECTION F. CONTINUED EFFECTIVENESS OF DOMESTIC MEASURES AGAINST RESTRICTIVE BUSINESS PRACTICES

It was recognized that the responsibilities of the Organization in this field should not affect the national laws under which some countries have made general provision for the prevention of monopoly or restraint of trade.

SECTION G. EXCEPTIONS TO PROVISIONS OF THIS CHAPTER

The Preparatory Committee considers that the procedure previously described should not apply to inter-governmental commodity agreements made under the arrangements specified in Chapter VII of the Charter or international agreements of the kind described in Article 59 of the Charter, though the Organization should, at its discretion, be empowered to make recommendations to members and to appropriate international organizations concerning any features of such agreements which may have harmful effects on the purpose of the Organization.

SECTION H. GENERAL OBSERVATIONS

1. Three delegates suggested that the provisions of Chapter VI (Restrictive Business Practices) should be extended to cover services. One delegate stated that the Chapter would have no meaning, if the question of restrictive business practices relating to services such as shipping, insurance and banking were excluded.

2. Two delegates suggested that consideration should be given to the possibility of establishing some form of procedure for the registration with the International Trade Organization of international combinations, agreements or other arrangements as defined in sub-paragraph (2) (*a*) of Article 39. One delegate felt, moreover, that some degree of publicity should be given to the results of such a procedure.

CHAPTER V. INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS

SECTION A. GENERAL CONSIDERATIONS

1. The Preparatory Committee recognizes that the conditions of production and consumption of certain primary commodities are such that international trade in these commodities is subject to special difficulties not generally associated with manufactured goods. These difficulties arise from inelasticities of supply and demand, often involving the accumulation of surpluses, which cause serious hardship particularly to small producers. Experience has shown that such difficulties have been greatly accentuated by booms and slumps. To the extent, therefore, that a policy of high and stable employment is successful on an international scale, the fluctuations in primary production and consumption are likely to be reduced, and the special difficulties of primary commodities correspondingly eased. On the other hand the achievement of greater stability in the real income of primary producers will in its turn assist in the general maintenance of high and stable levels of employment. Nevertheless, in the case of particular commodities the root causes of difficulties will remain, and it is necessary, in the interests of producers and consumers alike, to provide methods for dealing with them in a manner consistent with the maintenance of a high level of world trade.

2. It was agreed that, in the absence of provisions for broad international action, countries might be driven, as in the past, to resort to action restrictive of world trade and production. The Preparatory Committee therefore recognizes the need, in certain circumstances, for inter-governmental commodity arrangements and for agreement on the general principles to govern their use. It is considered unwise to deal with the great variety of special difficulties peculiar to individual commodities and with particular methods appropriate to each and, therefore, the Preparatory Committee's approach to the problem was rather one of developing broad general principles to cover as many types of circumstances as possible.

3. In connection with the scope of the provisions regarding special commodity problems that should be included in the Charter of the International Trade

Organization, it was agreed that, subject to certain limited exceptions, they should apply solely to primary commodities. A primary commodity is taken to be any mineral or agricultural product, including foodstuffs and forestry products. It is suggested that the Drafting Committee might 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. One delegate made a reservation that the term "agricultural products" in this context should not include fish or fisheries products.

4. It was considered that a statement covering inter-governmental commodity arrangements should include the objectives of such arrangements, the procedure for initiating and establishing them, and the broad principles which should apply to them. This statement should also cover the special circumstances in which agreements might be used for regulating production, trade or prices and the special principles that should apply to the operation and administration of such regulatory agreements.

5. There was general agreement that the objective of inter-governmental commodity arrangements should be to alleviate the difficulties which arise, when adjustments in production or consumption cannot be effected as rapidly as the circumstances require, by the free play of market forces alone. Such arrangements may aim to facilitate 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. They may also aim to moderate pronounced fluctuations in prices, to provide for increased production to meet serious shortages and to maintain and develop the natural resources of the world and protect them from unnecessary exhaustion.

6. With regard to this last objective, the attention of the Drafting Committee is called to the fact that the wording may require further examination. It is not intended, for instance, that the arrangements envisaged by Chapter VII should apply to international fisheries conventions.

SECTION B. INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS IN GENERAL

1. The Preparatory Committee considers that inter-governmental commodity arrangements should not be made until there has been full study and discussion of the problems relating to the commodity in question. It was, therefore, agreed that, where a commodity is experiencing, or is expected to experience, special difficulties, a study group may be formed to examine the problem. If the study group concludes that an inter-governmental commodity arrangement would be desirable, it should be followed by a Commodity Conference to discuss the appropriate measures to meet the special difficulties. Where it is agreed that adequate information is already available about a commodity, a Conference may be convened by the Organization without the prior formation of a study group.

2. The general procedure envisaged by the Preparatory Committee is that the first step in the development of a commodity arrangement would be the calling of a study group, the second, the convening of an International Commodity Conference, and finally the formation of a governing body to administer the arrangement agreed upon. The study group from the outset should consist of countries substantially interested in the production, consumption or trade of the commodity concerned. After this stage there would be increasing participation by interested countries. Finally, when the commodity arrangement has been agreed upon, it should be open initially to participation by any member. It should also be open to such non-members as may be invited by the Organization, since, if the arrangement is to be both comprehensive and effective, it must, of necessity, include substantially interested non-member countries. Attention was drawn to paragraph 2 of Article 31 [a] of the United States Draft Charter, which appears to be inconsistent with the participation of non-member countries in the benefits of commodity arrangements. It is recommended that the Drafting Committee should specify arrangements under Chapter VI as an exception to the operation of paragraph 2 of Article 31.

3. The question of the relationships between the Organization and specialized agencies interested in particular commodities was discussed. The Preparatory Committee agreed that the competent specialized agencies, such as the Food and Agriculture Organization, should be entitled to submit commodity studies to the Organization or ask that a study of a primary commodity be made. They may also be requested by the Organization to attend or take part in the work of a study group or a Commodity Conference. It was further agreed that when a commodity arrangement is eventually agreed upon, any competent specialized

[a] See Article 86 of the Charter.

agency may be invited by the Organization to nominate a non-voting member to the governing body.

4. There was agreemnt on certain general principles which should apply to all inter-governmental commodity arrangements in order that they may conform with the purposes of the Organization. In particular the Preparatory Committee considers that there should be adequate representation of importing and consuming countries as well as of exporting and producing countries. It was agreed, however, to ask the Drafting Committee to give further consideration to the text of this provision in the light of the Preparatory Committee's desire to give appropriate voice to:

(*a*) countries substantially interested in the production and consumption of a commodity but not in its import or export; and

(*b*) countries which are both large exporters and importers of the commodity.

5. In regard to voting on substantive matters almost unanimous agreement was reached. The Preparatory Committee is of the opinion that without pejudice to the right of the countries referred to in the preceding sentence to an appropriate voice, the voice of importers and exporters should be equal. It is felt that this was the only way in which the interests of both importers and exporters could be adequately protected. One delegation was strongly of the opinion, however, that equality of voice between importers and exporters should not be required, but that importers should have "a number of votes equitably proportionate to the number of votes of the exporting countries, in order that the interests of exporters and importers shall be duly protected."

6. The Preparatory Committee stresses that commodity arrangements should provide, where practicable, for measures designed to expand world consumption. This is particularly desirable when the need for a commodity arrangement arises from the existence of a burdensome surplus, or where increased consumption would result in an improvement in general well-being, as, for example, in higher standards of nutrition.

7. It was agreed that all inter-governmental commodity arrangements, proposed or concluded, should be given full publicity, so that all interested parties may be fully informed of the measures taken and of the progress achieved in the correction of the underlying difficulties.

SECTION C. INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS INVOLVING THE REGULATION OF PRODUCTION, EXPORT, IMPORT OR PRICES

1. A distinction is drawn between those inter-governmental commodity arrangements, which involve the regulation of export, import, production or prices, and those which do not. The former are referred to as regulatory agreements. It was felt that regulatory agreements should be used only in certain defined circumstances arising out of difficulties which would not be corrected by normal market forces alone, when a burdensome surplus exists or is expected to develop, causing hardship to producers, many of whom are small producers, or where special difficulties have given rise, or are expected to give rise, to widespread unemployment. In this connection it is desired that "unemployment" be taken in a wide sense to include "under-employment". It was agreed that in exceptional circumstances regulatory agreements might also be applied to manufactured goods. The Preparatory Committee intends that one effect of this provision should be to permit the inclusion of appropriate synthetic products within the scope of particular commodity agreements.

2. The Preparatory Committee discussed whether regulatory agreements might be used to deal with shortages. It was generally agreed that such agreements, which were made in those cases in which a burdensome surplus was "expected to develop", could appropriately take into account shortage difficulties. The history of some commodities shows that there may be recurring periods of burdensome surplus and shortage which need to be considered. Some delegates would have preferred to mention this specifically in the circumstances governing the use of regulatory agreements, but it was generally felt that this was unnecessary. It was furthermore agreed that arrangements relating exclusively to the distribution of commodities in short supply should be exempted from the provisions governing commodity arrangments, and, therefore could be concluded outside their framework. In this connection, the attention of the Drafting Committee is drawn to the discussion of the Preparatory Committee on this subject.[12]

3. Agreement was reached that in addition to the general principles applicable to all inter-governmental commodity arrangements, regulatory agreements should

[12] See Verbatim Record of the Eighth Meeting of Committee IV.

be subject to certain additional principles. The Preparatory Committee wishes to ensure that restrictive measures in regulatory agreements should be used only when essential to prevent or remedy serious dislocation or hardship, that they should not lead to unreasonable prices and that they should not afford permanent shelter to the less effective and economic sources of supply. The additional principles for regulatory agreements concern such matters as procedure, relations between countries participating in agreements and countries not participating, the assurance of adequate supplies to meet world demand at reasonable prices and the provision of increasing opportunities to meet world needs from the most effective and economic sources of supply. In relation to the phrase "reasonable prices" it was felt that this term should not be rigidly defined for all agreements, as the individual Commodity Councils would wish to decide this matter according to the conditions relating to the particular commodity. Certain delegates asked for further clarification of the term, and it is suggested that the Drafting Committee should consider this matter. One delegate suggested that the question of the attainment of a "reasonable" or "just" price should be included among the objectives of inter-governmental commodity arrangements. Another delegate thought that, in determining the "most effective and economic sources of supply," due consideration should be given "to the historial position of the supply areas which are members of the Organization."

4. The Preparatory Committee considers that every regulatory agreement should provide for a governing body (Commodity Council) and each participating country should be entitled to be represented thereon and to vote. Subject to the principles referred to in paragraph 4 of Section B, voting power may be distributed among countries according to the nature and extent of their individual interests. It was understood that regulatory agreements might if desired provide for qualified majorities on specific matters. Each Commodity Council should work within the framework of the International Trade Organization, which may appoint non-voting members of the Council and, if so requested, a non-voting chairman. The rules and regulations of the Councils should be subject to the approval of the Organization.

5. The Preparatory Committee agreed that regulatory agreements should be subject to periodic review. They should be effective for not more than five years subject to renewal. Where the operation of an agreement has failed to conform to the agreed principles, it should be revised accordingly. If this is not possible, it should be terminated.

6. It was agreed that there should be provision for the settlement of disputes, and it was thought desirable that this should be uniform through the Charter. The Preparatory Committee, therefore, is of the opinion that disputes arising out of inter-governmental commodity agreements and not settled in the Commodity Council should be subject to Article 86 of the Charter.

SECTION D. MISCELLANEOUS PROVISIONS

1. In order to bring existing arrangements as far as possible into line with the general provisions, the Preparatory Committee agreed that members should inform the Organization about their participation in commodity arrangements existing at the time their obligations under the Charter come into force, and that they should accept the decision of the Organization on whether their continued participation is consistent with those obligations. A similar principle should apply to commodity arrangements which are in process of negotiation at the time obligations under the Charter come into force. One delegate proposed that any member should be free to withdraw from the Organization if it considers it impossible to be guided by the decision adopted by the Organization in these matters and if, on appeal, the Organization does not modify the decision in question.

2. The Preparatory Committee considers that all members of the Organization, whether party to a particular agreement or not, should undertake to give the most favourable possible consideration to any recommendation by a Commodity Council for expanding the consumption of the primary commodity concerned.

3. Agreement was reached on certain categories of inter-governmental commodity arrangements which would not be subject to the provisions agreed for general application. In particular this applies to inter-governmental commodity arrangements previously mentioned which relate solely to the equitable distribution of commodities in short supply. This would not, of course, preclude other inter-governmental arrangements from dealing with shortages as part of their operations.

4. The Preparatory Committee discussed the general question of escape clauses. It is thought that, where there is unreasonable delay in the proceedings of a study group or Commodity Conference, members may proceed by direct negotiations to the conclusion of an agreement, provided that it otherwise conforms to the agreed provisions. One delegate wished to go further and felt that there should be specific permission for vitally interested members to proceed, where the Commodity Conference fails to make a recommendation in favour of an agreement.

5. The Preparatory Committee also discussed the way in which the various functions outlined in the previous paragraphs should be allocated to the various organs of the International Trade Organization, and agreed on suggestions for the consideration of the Drafting Committee, which is requested to prepare the appropriate text.

6. Appearing hereunder are certain suggestions for the assignment of functions and organizational relationships as regards inter-governmental commodity arrangements, which have been prepared by the Preparatory Committee.

Reference Chapter VII	Function	Suggested Authority within Organization
Article 48, Paragraph (2).	Invitation to certain members and non-members to appoint representatives to a study group.	Executive Board on the recommendation of the Commodity Commission; the latter will carry out actual administrative arrangements for the study group.
Article 48, Paragraph (3).	The study group makes recommendations to the Organization as to how best to deal with difficulties.	Recommendations received by Commodity Commission and transmitted to members of the Organization through Executive Board.
Article 49, Paragraph (1).	Convening of Commodity Conference	Executive Board.
Article 49, Paragraph (2).	Invitation to nonmembers to participate in Commodity Conference.	Ditto.
Article 50, Paragraph (1).	Receipt of studies, or of request for studies, from specialized agencies.	Commodity Commission.
Article 50, Paragraph (2).	Requests to specialized agencies to take part in the work of the Commodity Conference.	Executive Board on the recommendation of the Commodity Commission.
Article 51, Paragraph (1).	Determination of whether terms are "no less favourable." Approval of terms of subsequent participation.	Ditto.
Article 51, Paragraph (2).	Invitation to nonmembers to participate in arrangements.	Ditto.
Article 52,[1] Paragraph (3).	Decision whether exceptional circumstances exist which would justify a regulatory agreement for a nonprimary commodity.	Executive Board advised by the Commodity Commission, subject to procedures established by the Conference.
Article 54, Paragraph (3).	Appointment of nonvoting members to Commodity Council.	Executive Board on the recommendation of the Commodity Commission.
Article 54, Paragraph (4).	Nomination of non-voting Chairman at request of Commodity Council.	Commodity Commission (Ref. paragraph 8 of Article 66, of U. S. Draft Charter).
Article 54, Paragraph (5).	Consultation regarding Secretariat	Do.
Article 54, Paragraph (6).	Approval of rules of procedure	Commodity Commission (Ref. paragraph 7 of Article 66, of U. S. Draft Charter).
Article 54, Paragraph (7).	Receipt of reports from Commodity Council, and requests to latter for special reports.	Commodity Commission (Ref. paragraph 9 of Article 66, of U. S. Draft Charter).
Article 55	Preparation and publication of a review of operation of an agreement.	Preparation by the Commodity Commission; publication by authority of the Executive Board.
	Disposal of archives, etc., on termination of an agreement.	Documents in charge of Director-General.
Article 57, Paragraph (1).	Receipt of information regarding existing commodity arrangements; review and decision regarding continued participation.	Executive Board (subject to approval of the Conference) upon recommendation of the Commodity Commission.
Article 57, Paragraph (2).	Similar function in connection with negotiations.	Executive Board (subject to approval of the Conference) upon recommendation of the Commodity Commission.

General matters not specifically referred to in the Charter which involve the Organization will normally fall within the province of the Commodity Commission in its advisory capacity to the Executive Board.

[1] With reference to paragraphs (1) and (2) of Article 52 it would appear that the determination whether the circumstances in fact exist in which a regulatory agreement may be used will be made "by consultation among the members having an important interest in the trade in the product concerned". *See* paragraph (6) of Article 66 of the Charter, read together with paragraph (3) of Article 66 and sub-paragraph 2 (*b*) of Article 45 of the United States Draft Charter.

Chapter VI. Establishment of an International Trade Organization

Section A. General Observations

It will be appreciated that this part of the work of the Preparatory Committee depended very largely on the outcome of other work which was being done simultaneously. For this reason it was impossible to carry many matters concerning administration and organization to an advanced stage of discussion.

Section B. Purposes of the Organization

The Preparatory Committee considers that any discussion on this subject should be postponed until the structure of the Organization can be seen as a whole.

Section C. Membership and Functions

1. The provisions of the United States Draft Charter relating to memebership of the Organization were generally approved. It was agreed that the original members of the Organization should be those countries represented at the United Nations Conference on Trade and Employment which accept the Charter by a given date or, in the event of the Charter not being brought into force by that date, the countries which agree to bring the Charter into force among themselves. With reference to the admission of new members, however, the Preparatory Committee considers that the authority of the Conference to act in this matter on its own initiative should be made clear and that while such admission might be sponsored by the Executive Board, the prior recommendation of the Board should not, as in the case of the Security Council of the United Nations, be a pre-requisite to approval by the Conference.

2. In considering the functions of the Organization the point was made that it might prove necessary to amplify or expand the provisions of the relevant Article of the United States Draft Charter to correspond with possible new chapters of the Charter dealing respectively with employment policy and industrial development. One delegate considered that the implications of the provision concerning techuical advice and assistance to members and to other international organizations were not sufficiently clear and entered a reservation that, at the appropriate time, the responsibilities to be undertaken by the International Trade Organization in this respect would need to be more precisely determined. It would have to be decided, for example, whether the intention was that the International Trade Organization should employ a large staff of technical experts or whether it should act merely as a clearing house to which governments could turn for assistance and advice.

3. There was general agreement to a proposal that the International Trade Organization should not only endeavour to bring about international agreements on matters within its competence, but should actively promote their acceptance by members.

4. It was explained that the term "arts" in the Charter was intended to be interpreted broadly and to include copyright for designs of many kinds. Bilateral agreements under this provision would certainly not be barred but for the most part the widest possible application was desirable. It was emphasized that the provision concerning co-operation with the United Nations in the restoration and maintenance of international peace and security was specifically intended to ensure that the Organization would possess all the constitutional authority necessary to enable it to assist the Security Council, if called upon to do so. Emphasis was given also to the desirability of co-operating closely with the United Nations and other specialized agencies in achieving an economy of effort in the carrying out of the functions of the Organization.

Section D. The Conference

1. The provisions of the United States Draft Charter relating to membership of the Conference, sessions, procedure and officers were approved without change. Consideration was given to the question whether the President of the Conference should be elected annually or for each session, the majority opinion favouring

the former arrangement on the grounds that procedural delays would thereby be avoided in the event of special sessions being convened. The Preparatory Committee recommends that when the rules of procedure of the Conference are being drafted, consideration should be given to the possibility of including some appropriate provision which would enable a special session to be called at the request of less than a majority of the members. Such a provision might apply, for example, in connection with appeals against decisions of the Executive Board.

2. In discussing the powers of the Conference to suspend, in exceptional circumstances, obligations undertaken by members under the general commercial policy provisions of the Charter, it was suggested that this power might be extended to cover all obligations under the Charter. It was stressed that the waiving of such obligations was intended to apply only in cases of an exceptional nature, involving hardship to a particular member, which were not covered by specific escape clauses. It was finally agreed that all the obligations undertaken by members, pursuant to the Charter, should come within the purview of this general provision.

3. As regards the apportionment of expenses some delegates urged the adoption of the same relative scale of contributions as used in the case of the United Nations, on the grounds that the difficulties attendant upon the working out of a new scale would thus be avoided. However, as the decision on the United Nations scale of contributions has not yet been made known and the question of voting in the Organization and of membership of the Executive Board has then still to be decided, the Preparatory Committee considers it impossible to do more at this stage than recommend that, in the absence of any other agreed arrangement, apportionment of expenses should follow the general principles adopted by the United Nations.

4. In discussing the powers of the Conference to establish the procedures required for making the determinations and recommendations provided in the Charter, one delegate desired that a two-thirds majority should be required in important matters. However it was agreed that it would be best to adhere to the broad principle that all decisions, except possibly those of a very important nature, should be voted by a simple majority.

5. Since it was agreed that one of the functions of the Organization should be to make recommendations for international conventions and agreements on matters within its competence, it seemed desirable that a provision to this effect should be included among the powers and duties expressly conferred upon the Conference. To this end agreement was reached on a provision (based on the corresponding article of the Constitution of the World Health Organization) authorizing the Conference to develop and recommend conventions and agreements for members' acceptance, and requiring members to give such recommendations due consideration and to decide, within a reasonable time, either to accept or to reject them.

SECTION E. VOTING AND EXECUTIVE BOARD MEMBERSHIP

1. In the discussion on voting divergent schools of thought emerged as to whether some formal provision should be made in the Charter whereby differences in importance in international trade of individual members would be reflected in the measure of control they would exercise over the affairs of the International Trade Organization. One school maintained that the democratic approach to the problem was to allow an equal voice and vote to all members and that the successful functioning of the Conference would depend in large measure upon a feeling of equality. Certain delegates, however, contended that because the International Trade Organization will be a functional rather than a political body, it would not be democratic to permit those with a smaller proportionate share of international trade to overrule those whose share was much larger, merely by virtue of their larger number of separate votes.

2. It was also suggested that it would be anomalous to have only one vote for countries having responsibility for dependent territories, the economies of which differed radically from their own and some of which had an effective measure of autonomy in matters covered by the Organization. The majority of delegates

favoured in principle the system of one country-one vote, but several who did so, expressed willingness to consider alternatives. In the course of discussion many shades of opinion were discernible, but it is was generally agreed that at this stage a full exchange of views was more desirable than any attempt to reach final agreement.

3. Two broad alternatives to the United States Draft Charter were advanced—a system of weighted voting in the Conference and permanent seats on the Executive Board. The interdependence of these two possibilities was recognized by discussing them in conjunction.

Weighted Voting

4. (*a*) Several delegates declared their difficulty in expressing any definite views on the subject of weighted voting without considering concrete schemes. A paper was subsequently circulated suggesting that consideration should be given to a weighted system of voting both in the Conference and Executive Board, based on a formula which provided for

(i) a basic number of votes for each country, and

(ii) a number of votes based on total external trade, plus perhaps

(iii) a number of votes based on national income.

(*b*) It was also suggested that the incidence of voting should be revised periodically to take account of the changing relative position of members—a factor which some delegates thought might be provided for by criteria measuring potential development. A ceiling for the number of votes which any one country might have was subsequently proposed. In advancing these proposals the arrangements made in connection with the International Labour Organization, the International Monetary Fund, the International Bank for Reconstruction and Development and the Provisional International Civil Aviation Organization were quoted as precedents for a differential system in connection with membership of the Governing Body. The arrangements of the International Labour Organization were explained by a representative of that organization. Certain delegates thought that some of these precedents were irrelevant and stressed the difficulty of reaching any kind of formulae which would be acceptable to all potential members, together with the protection afforded to members by the requirement of an affirmative vote of two-thirds of the Conference for decisions on crucial issues.

(*c*) Other delegates only discussed the proposals on the hypothesis of a weighted system being adopted, without prejudice to their preference for the one nation-one vote principle. The criteria put forward were criticized on the following grounds:

(i) Undue weight would be given to small countries with a large external trade at the expense of countries with a large population whose external, as compared with internal, trade is relatively small.

(ii) From the democratic point of view population should be given the greatest weight.

(iii) National wealth would be a preferable criterion to national income.

(iv) Countries, relatively more dependent on international trade than others, should have extra voting strength accordingly.

(v) National income would weigh voting in favour of members whose international trade was relatively less important to themselves.

(vi) The interests of less developed countries would be insufficiently safeguarded.

(vii) The methods of estimating the figures on which the criteria depended differed considerably from country to country.

(viii) The proposals were not clear as far as voting on the Executive Board was concerned.

(*d*) This question is referred to the Drafting Committee for the formulation and exposition of alternative schemes of weighted voting which governments might consider (although there is some doubt whether this function falls within the Committee's terms of reference).

Executive Board—Membership

5. (*a*) Many members of the Preparatory Committee, including among their number both the sponsors and opponents of weighted voting, felt that there

should be provision for permanent seats on the Executive Board for members of chief economic importance. Several delegates, though favouring equality of voting in the Conference, were ready to support the principle of permanent seats on the Board, largely on the grounds that the continuous support and participation of these countries was essential to the success of the International Trade Organization. It was suggested on the other hand that any special provision was superfluous because the re-election of these countries was always virtually certain.

(*b*) A variation of the idea of permanent seats was proposed by which membership of the Executive Board would rotate, but with a certain number of countries eligible for immediate re-election. This would avoid any necessity for formal mention of permanent seats in the Charter.

(*c*) It was suggested that it would be better to establish criteria for selecting permanent members rather than to name them in the Charter, though the latter procedure was mentioned as a possibility. Various alternatives were advanced While some delegates thought that tests of economic importance such as external trade and population should be applied, others maintained that wider considerations than purely economic ones should be taken into account. Some delegates thought that geographical criteria should be applied in conjunction with economic. A scheme was submitted by which the seats would be allotted for five year terms with eligibility for immediate re-election, to the most important trading countries within the geographical areas of Europe (2), North America (2), Latin America (2), Asia (2), Oceania (1) and Africa (1). This was opposed on the grounds that the only justification for permanent seats was the difference in importance of members in international trade, a factor which was independent of location. It was suggested, however, that geographical considerations might be applied to nonpermanent seats.

(*d*) The number of permanent and non-permanent seats was also considered. A increase of the total from fifteen, as proposed in the United States Draft Charter, to twenty was advocated by some delegates, though others thought a membership of twenty too large for the smooth working of an executive organ.

(*e*) The opinion was also expressed, however, that the Board would need to work largely through sub-committees in any case. Importance was attached to the need for relating the number of seats on the Board to the number of members of the Organization. Some thought that the position should be left elastic until this was known. Various proportions of permanent to non-permanent seats were tentatively mentioned without any particular proposition receiving detailed consideration or wide acceptance.

6. The conclusions which emerged from the Preparatory Committee's deliberations on the subject of Voting and Executive Board Membership may be briefly stated as follows:

(*a*) The majority of delegates favoured the principle of one country—one vote in the Conference and in the Executive Board.

(*b*) A minority desired detailed examination of possible schemes for weighted voting, but not necessarily at this stage.

(*c*) The principle of permanent seats on the Executive Board in some form is acceptable to most delegates.

(*d*) The three-year period of membership of the Board set out in the United States Draft Charter was largely unquestioned.

(*e*) No useful purpose would be served by attempting to produce a definitive draft covering these particular provisions, until such time as the substantive issues involved have been more completely resolved.

7. No firm conclusions were reached on the following matters:

(*a*) The number of seats on the Executive Board.

(*b*) The relative number of permanent seats (if any) and non-permanent.

(*c*) Rotational membership of Executive Board.

(*d*) The criteria for electing members of the Executive Board, either for permanent or non-permanent seats.

SECTION F. THE EXECUTIVE BOARD—PROCEDURE, POWERS AND DUTIES

1. The text of the United States Draft Charter, insofar as it concerns the powers and duties of the Executive Board, was accepted with only two amendments both of which, however, were indicative of two basic concepts, shared by the majority of delegates, as to the general status and authority of the Executive Board vis-à-vis the Conference on the one hand, and the Commissions, on the other. The first amendment was to make permissive rather than mandatory, the power of the Board to recommend to the Conference the admission of new members, thus emphasizing what most delegates felt should be the clearly subordinate position of the former. Similarly it was thought that the Commissions, in turn, should be definitely subordinate to the Board and to give added emphasis to this principle it was decided that the latter should "supervise" and not merely "review" the activities of the former.

2. There was a disposition, however, to allow a maximum of latitude to the Board in drawing up its own rules of procedure and electing its officers, though certain specific suggestions were made in this regard to which it was hoped due consideration would be given. These included proposals that in certain circumstances it should be possible for a minority of members of the Board or for a specified number of members of the Organization not represented on the Board, to convene a session. In discussing the term of office of the Chairman, the desirability of providing for a reasonable measure of continuity was stressed by several delegates. Whilst, on the whole, the advantages of annual election were deemed to outweigh the disadvantages, a satisfactory compromise was found by specifically providing that the Chairman and other officers should be eligible for immediate re-election. A reservation concerning the reference to "other officers" was withdrawn on the understanding that the term referred only to members of the Board themselves and not to officials of the Secretariat. A proposal that the Chairman of the Board should be able to participate in the deliberations of the Conference in his capacity of Chairman, though without the right to vote, found general acceptance. It was, of course, recognized that the Chairman of the Executive Board would probably attend the Conference as a representative of his government. Nevertheless it was thought desirable to cover the contingency of his not attending in such representative capacity and that in any case, he should be entitled, under the Charter, to at least the same rights with respect to participation in the Conference as are accorded chairmen of commissions.

3. Agreement was reached also on the desirability of including in the Charter a provision under which any member of the Organization would have the right to appear and effectively present its case before the Executive Board, when a matter of particular and substantial concern to that member was under consideration. The provision, as accepted, is based on Article 31 of the Charter of the United Nations but is somewhat more precisely drawn in that it grants to the member concerned, all the rights of members of the Board except the right to vote. At least one delegate, however, expressed serious misgivings lest this arrangement should hamper and embarrass the Board by precluding it from holding confidential discussions on any subject or from dealing effectively with matters of general application. Another delegate suggested that the Board should not be under any firm obligation to invite members to attend its sessions but should do so at its discretion.

SECTION G. THE COMMISSIONS

1. The Preparatory Committee discussed the Commissions in general terms, particular attention being paid to their composition and procedure. The desirability of establishing commissions as an essential part of the structure of an International Trade Organization to perform certain specialized tasks was in no way questioned. There was a tendency to treat the matter rather tentatively, largely because most delegates felt that the structure, functions and status of commissions and the manner in which they would operate, could not at present be foreseen in much detail. Various views were expressed however, as to the more important consideration to be borne in mind.

2. The Preparatory Committee is of the opinion that the Commissions should be subordinate to the Executive Board. The extent to which they should operate other than in a strictly advisory capacity is, however, a question which it is felt cannot be fully resolved at present. Some delegates expressed the opinion that the Commissions should not be called upon to undertake responsibilities of a semi-judicial nature and considered that, in this respect, the wording of Articles 64, 65 and 66 [12] of the United States Draft Charter raised certain doubts as to the functions it is intended the Commission should perform. It was argued in support of this view that only representatives of governments, not experts in their own right, should be directly responsible for important executive and judicial decisions.

3. There was general agreement with the proposal that the Commissions should consist of outstanding experts of high prestige in their own fields who would operate independently of their governments. One delegate, though agreeing in principle with this proposal, was of the opinion that the governments concerned should in all cases be consulted regarding appointments to commissions and that it should be expressly provided that not more than one national from any country should serve on any one Commission. The majority of delegates, however, felt that in general these conditions would, in fact, be complied with and that it was unnecessary and undesirable, therefore, to write them into the Charter itself.

4. The Preparatory Committee considers that in appointing members of commissions due regard should be paid to the importance of selecting personnel on as wide a geographical basis as possible. In this connection it was agreed that the desirability of having different types of economies represented, particularly in the case of the less developed countries, should also be borne in mind. Various opinions were expressed as to whether some or all the members of Commissions should serve on a part time or full time basis. While certain delegates anticipated that the work of at least some of the Commissions would be so heavy and continuous that full time service might be essential, others thought that, by becoming permanent international officials, the individuals concerned would tend to lose much of their intimate contact with current affairs in their own countries and that this would greatly lessen their value to the Organization. In this respect no need was felt for changing the text of the United States Draft Charter which did, in fact, leave the matter to be decided by the Conference. There was considerable support for the idea that the Chairman of each Commission might serve on a full time basis, and it is, therefore, recommended that provision be made accordingly in the rules of procedure to be drawn up by each Commission.

5. The question of relationship between the personnel of Commissions on the one hand, and the Director-General and the personnel of the secretariat on the other, gave rise to a certain amount of concern. While it was acknowledged that the secretariat should serve the Commissions, it was suggested by a number of delegates that the respective functions, responsibilities and status of the Director-General and of members of commissions would need to be more carefully defined, particularly in cases where the latter were to become permanent officials of the Organization. The desirability of the Commissions having access to the Executive Board directly rather than through the Director-General is particularly stressed. At the same time, however, serious misgiving was expressed lest two separate bodies of officials of differing status should be created within the one Organization thus opening up the possibility of divided authority with attendant friction and confusion. The difficulty of attracting, on a permanent basis, persons of the calibre required and the possible expense which this would involve were also pointed out.

6. The Preparatory Committee is of the opinion that these questions cannot profitably be pursued further until the structure of the Organization as a whole begins to take shape. Moreover the number and nature of the Commissions, which might ultimately be required, cannot now be foreseen. Agreement was reached, however, on certain minor amendments to the relevant provisions of the United States Draft Charter, the general purpose of which is to give to those provisions a somewhat greater measure of elasticity, having regard to the uncertain requirements of the future. Subject to the views expressed being given

[12] cf. Article 76 of the Charter.

proper consideration when appropriate action is taken, the Committee regards the amended provisions as incorporated in the agreed text as satisfactory.

7. The provisions of the United States Draft Charter dealing with the functions of the Commissions on Commercial Policy, Business Practices and Commodities respectively were discussed in general terms. These particular provisions will be examined more fully at the Second Session of the Preparatory Committee. A proposal was submitted calling for the establishment of an additional commission to deal with the "Expansion of Production, Industrialization and Employment." In view of the resolution regarding international action in the field of employment drafted by the Preparatory Committee for the consideration of the United Nations Conference on Trade and Employment,[14] consideration of this matter is deferred until a later date.

SECTION H. THE SECRETARIAT

1. The Preparatory Committee feels that the structure of the International Trade Organization including the secretariat, should be brought into the closest possible relationship with the United Nations, for reasons which include economy, the shortage of skilled personnel, co-ordination of policy, prevention of overlapping, and the avoidance of any possible separatist tendency. The necessity of ensuring proper co-ordination with the Economic and Social Council itself, in order to avoid needless duplication of work on identical or closely related problems, was particularly stressed. Common services and staff conditions for the various international economic secretariats now being built up or in contemplation were advocated wherever possible.

2. Some delegates thought that, with respect to certain phases of its work, the International Trade Organization might make appropriate use of the economic secretariat of the United Nations, and that it would be an advantage from this viewpoint if the International Trade Organization were located in the same place. Most delegates, however, were not prepared to offer any definite views on the question of the site at this stage.

3. In general it was agreed that detailed consideration of this question of interlocking staff arrangements would be premature and that the Secretariat of the United Nations should be asked to furnish relevant information and suggestions for consideration at the appropriate time. Certain preliminary observations and proposals concerning the co-ordination and integration of services and activities of secretariats were subsequently circulated in response to this request. Several delegates indicated that the cost of maintaining a multiplicity of separate international organizations was already showing signs of assuming considerable proportions and that the expenses of the International Trade Organization should, therefore, be kept to the minimum consistent with efficiency.

4. The principle was generally accepted that provisions relating to the organization of the secretariat should be as flexible as possible, particularly with reference to the number, status and powers of Deputy Directors-General, and that, as a corollary, the Director-General should be given all the authority and freedom of action necessary for carrying out his responsibilities. Most delegates agreed that the position of the Director-General should be made as strong as possible in relation to that of other officials of the secretariat, and that any specific reference in the Charter to either the number or functions of Deputy Directors-General should consequently be omitted. This decision was felt to be justified on the grounds, firstly, that if their status and powers were to be derived directly from the Charter, the relative authority of the Director-General would be lessened, and secondly, that it should be left to the Director-General to appoint only such number of deputies as are in fact needed. Appointments should in any case be in accordance with regulations approved by the Conference. A proposal that the Director-General be ex-officio non-voting Chairman of the Executive Board did not win favour.

5. While delegates agreed that efficiency, competence and integrity should be the paramount considerations in recruiting personnel for the secretariat, many thought that adequate geographical representation and familiarity with different kinds of economic conditions and interests, should also be taken substantially

[14] See Chapter I, Section I.

into account. The Preparatory Committee drafted a provision which is intended to give effect to this principle, and to conform to the corresponding provision in the Charter of the United Nations. Some delegates suggested that personnel of the secretariat and Commissions should be recruited only from members of the International Trade Organization. Others considered that such a provision would be unduly restrictive, and that employment should be open to nationals of all members of the United Nations subject, perhaps, to some measure of preference being given to nationals of the members of the Organization. The Preparatory Committee also considers that specific provisions regarding nationality should not be included in the Charter, thus leaving the way open for the occasional recruitment of exceptionally qualified persons, who otherwise would not be eligible, if, in the Director-General's opinion and subject to such consultation as he may deem advisable, the services of such persons would be of special value to the Organization.

SECTION I. MISCELLANEOUS PROVISIONS

1. Relations with other Organizations

(*a*) Those provisions of the United States Draft Charter, which deal with questions of relationship between the International Trade Organization and other international organizations found ready acceptance. The useful part which these organizations, both inter-governmental and non-governmental, might play in helping to promote the objectives of the International Trade Organization is generally recognized.

(*b*) Although many delegates were willing to leave to the Director-General the negotiation of a formal agreement with the United Nations according to the precedent set by other specialized agencies, the opinion was also expressed that the provisions of such an agreement should be worked out in detail beforehand, with a view to their becoming operative as soon as the International Trade Organization comes legally into existence. All delegates agreed, however, with the general proposition that in the interests of economical and efficient administration, and for the purpose of avoiding inconsistent and even conflicting policies, it was of the greatest importance that the closest relationship with the United Nations, and particularly with the Economic and Social Council, should be specially developed.

(*c*) There was general agreement, too, with the view that it would be undesirable to refer specifically to any particular organization in the provision of the Charter dealing with relations with other inter-governmental organizations in view of the fact that the activities and responsibilities of a number of these organizations will be of special importance from the point of view of the International Trade Organization. The importance of the Food and Agricultural Organization, of the International Monetary Fund, of the International Bank for Reconstruction and Development and of the International Labour Organization in relation to the work of the International Trade Organization is particularly stressed.

2. Legal Capacity, Privileges and Immunities

The provisions of the United States Draft Charter dealing with the legal capacity, privileges and immunities of the Organization were approved without change. In view of the fact that the Secretary-General of the United Nations is under instructions from the General Assembly to consult with specialized agencies on the subject of privileges and immunities with a view to ensuring a reasonable degree of uniformity in the arrangements made for all inter-governmental organizations, the Preparatory Committee feels that the provisions of the Charter relating to these matters should be expressed in general rather than specific terms, leaving the formulation of their detailed application to the Conference.

3. Payment of Contributions

The Preparatory Committee considers that a penalty clause with reference to non-payment of contributions should be incorporated in the Charter. Some discussion took place, however, as to the appropriate place in the Charter for a

provision of this nature, the matter being finally left to the decision of the Drafting Committee. In order to bring the procedure of the International Trade Organization into line with that adopted by the United Nations, a suggestion that the wording of this particular provision should conform to that used in the Charter of the United Nations met with general support.

4. Amendments

(*a*) While it was generally recognized that the Organization should be so constituted as to allow it to meet constitutional changes of a minor kind without undue difficulty, several delegates thought that a member not accepting amendments, which involve new obligations would be in an anomalous position in its relationship to the Organization, if it were not permissible for the member to withdraw.

(*b*) It was, therefore, felt that provision should be made whereby the Conference might decide that a nonaccepting member would be compelled to withdraw or, in the absence of such a decision, whereby such a member might be enabled voluntarily to withdraw, notwithstanding any general provisions contained elsewhere in the Charter limiting the right of withdrawal.

5. Withdrawal

In considering withdrawal and termination account was taken of the necessity of giving the Organization a fair chance at its inception to become firmly established. It was felt, nevertheless, in view of the fact that the trade agreements legislation of the United States would not permit that country to enter into tariff commitments of more than three years' duration, that the period immediately following the adoption of the Charter, within which no withdrawals should take place, should likewise be three years, instead of five as proposed in the United States Draft Charter. It was also felt that six months' notice of intention to withdraw, rather than one year (as in the United States Draft Charter), would be adequate. Thus, a member would be able to withdraw at the end of three years, by giving notice at the end of two and a half years. Special provision was also made to cover certain overseas territories of members.

6. Interpretation and Settlement of Disputes

(*a*) It was agreed to make the English, Chinese, French, and Spanish texts of the Charter equally authoritative. The question of providing also a Russian text did not present itself at the First Session.

(*b*) Attention was called to the possibility of a special chamber for commercial cases being established under Article 26 of the Statute of the International Court of Justice. There was some doubt, however, as to whether its existence might not detract from the prestige of the International Trade Organization. Several delegates thought that the jurisdiction of the Organization should be final in administrative matters coming within its province and that only legal issues should be referred to courts, politico-economic decisions being recognized as the Organization's own responsibility. Although it was generally agreed that the Executive Board, where appropriate, could refer disputes to the Commissions for preliminary report, some disapproval was voiced at the idea of Commissions being formally regarded as courts of first instance.

(*c*) Considerable discussion took place on whether appeals to the International Court of Justice from rulings of the Conference on justiciable issues should be subject to the consent of the Conference. It was argued that some limitation was necessary both to keep the prestige of the International Trade Organization high and to avoid overloading the International Court. The contrary view was that only justiciable matters were involved in which the International Trade Organization was not expert, and that, in practice, countries would only appeal on issues which they regarded as really important. Some compulsory delay was also suggested.

(*d*) The Preparatory Committee eventually agreed that the right of appeal should be subject to procedures established by the Conference, and that in determining these procedures consideration should be given to incorporating as a prerequisite an affirmative vote of at least one-third of the members of the Conference. The absolute right of appeal to the International Court of Justice in security matters, as set out in the United States Draft Charter, was not called into question.

(*e*) All delegates thought that the authority of the International Trade Organization to seek advisory opinions from the International Court of Justice should be continuing and not subject to reference to the General Assembly of the United Nations on each occasion. The Article concerned was redrafted to accord with the language of the Charter of the United Nations. Although the interpretation of this wording was open to question, it was thought that the matter could be clarified in the agreement to be concluded under Article 57 of the Charter of the United Nations.

(*f*) It was agreed to refer to the Registrar of the International Court of Justice the question whether complications would be likely to arise from asking the Court for an advisory opinion on a matter which might subsequently become the subject of a case before it.

(*g*) It was agreed also that in view of paragraph 2 of Article 34 of the Statute of the International Court of Justice, the rules of the Conference should enable the Director-General to represent the Organization before the Court.

(*h*) The introduction of detailed discussion on arbitration raised considerable difficulty because delegates were by no means clear as to what kind of issues were appropriate for arbitration. A lengthy discussion took place whether administrative as well as legal questions should be referred to arbitration, whether the Executive Board should await the consent of the parties concerned and whether the arbitrators' decision should be final (most delegates agreed that it should). An amendment was agreed upon which would permit the Executive Board, with the consent of parties concerned, to refer to arbitration for final decision any matter arising out of the operation of the Charter.

(*i*) Certain delegates wished the provisions in regard to arbitration and the International Court of Justice to be expanded and made more specific, and they undertook to prepare a memorandum setting out their views. The Drafting Committee is asked to consider these views in conjunction with the verbatim report of Committee V's discussion of this subject.

7. Entry into Force

(*a*) One delegate suggested that, instead of requiring a membership of twenty to bring the Charter into force, an alternative method might be to provide for its taking effect when a certain proportion of world trade was covered by countries accepting its provisions, so that the entry of the Charter into force should not be delayed after its acceptance by the most important trading countries. Various objections to this procedure were voiced by other delegates.

(*b*) In general the procedures suggested in the United States Draft Charter for bringing the Charter into force are regarded as satisfactory by the Preparatory Committee subject to the amendment that any instrument of acceptance deposited with the Secretary-General of the United Nations is to be taken as covering both procedures, unless it expressly provides to the contrary or is withdrawn.

(*c*) This was intended to cover the situation that might arise when one or more governments, having deposited their acceptances before a given date (pursuant to paragraph (2) of Article 88) might not feel inclined to join the Organization should it subsequently come into existence as a result of agreement on the part of a relatively limited number of Governments (pursuant to the proviso to paragraph (3) of Article 88), but might nevertheless wish their acceptance to take effect when the membership reaches twenty or more.

(*d*) With reference to the suggested provision under which each government accepting the Charter would do so in respect of all dependent territories, attention was drawn to the fact that certain overseas territories were in varying degrees of development and, in some cases, were self-governing in matters provided for in the Charter. To meet this situation a less rigid provision was agreed upon, the purpose of which is to permit a measure of discretion to the governments concerned with respect to their acceptance of the Charter on behalf of territories for which they have international responsibility. Reservations regarding this provision were entered by three delegates.

8. Interim Tariff Committee

(*a*) At its Second Session at which tariff concessions will be discussed, the Preparatory Committee hopes that certain reductions of tariffs or other concessions will be agreed. If so, the Committee considers that it might be desirable

to bring these reductions or concessions into effect as soon as possible, without necessarily waiting upon the entry into force of the Charter. It would be for the negotiating countries themselves to decide the time. When the Organization is set up it is hoped that the countries, which have reduced their tariffs, will join it. These countries would then become the nucleus of the Interim Tariff Committee, which would be supplemented by other countries joining the Organization, and which themselves have made equivalent tariff concessions to the satisfaction of the Committee. When two-thirds of the members of the Organization become members of the Committee, the functions of the latter will vest in the Conference.

(*b*) The Preparatory Committee is of the opinion that for countries making reductions membership of the Interim Tariff Committee should be compulsory.

(*c*) A reservation was made regarding the position of members which did not desire to join the Committee.

(*d*) A suggestion was made that if weighted voting were introduced, it might be applied in the case of the Interim Tariff Committee.

(*e*) A provisional view was expressed that the implementation of tariff agreements and of the Charter should be interdependent.

EXHIBIT IV–B

[The "London Draft"]

Preliminary Draft

CHARTER *for the* INTERNATIONAL TRADE ORGANIZATION *of the* UNITED NATIONS

ARTICLES AS DRAFTED AT THE LONDON MEETING, OCTOBER 15–NOVEMBER 26, 1946, BY THE PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT, TOGETHER WITH THE ORIGINAL AMERICAN DRAFTS OF ARTICLES ON WHICH THE PREPARATORY COMMITTEE TOOK NO SPECIFIC ACTION

Department of State, December 1946

FOREWORD

The draft charter for an international trade organization which follows is not an official document of either the United States Government or the Preparatory Committee of the International Conference on Trade and Employment. It is submitted purely as an interim working paper to facilitate study in the United States of proposed provisions for a charter of an international trade organization.

In September 1946 the United States Government published a *Suggested Charter for an International Trade Organization* of the United Nations. The *Suggested Charter* was submitted to the Preparatory Committee of the International Conference on Trade and Employment, which held its first meeting in London between October 15 and November 26 of that year. The Preparatory Committee used the *Suggested Charter* as the main basis for its discussions.

Acting as a group of experts, without committing the governments represented, the Preparatory Committee agreed to texts of draft articles with respect to about 85 percent of the provisions which it is anticipated might be included in a charter for an international trade organization. In the case of other provisions, draft articles were not agreed to, because the short duration of the Preparatory Committee meeting and the complexity of the provisions concerned made it necessary to refer them to an interim drafting committee, which will meet in New York beginning in January, and to the second meeting of the Preparatory Committee in April.

In preparing the draft charter which follows, the Department of State has used the basic organization of the *Suggested Charter* published by the United States Government in September 1946. In cases where the Preparatory Committee agreed on draft articles, those articles have been substituted for the corresponding articles in the United States *Suggested Charter*. Of the 89 articles in the draft charter which follows, 74 are articles which were agreed to by the Preparatory Committee. In cases where the Preparatory Committee did not agree on an article,* the original article from the United States *Suggested Charter* has been included in square brackets. In order to provide an integrated document, it was necessary to change the numbers of the articles and also to edit the references in certain articles to provisions in others. All such editing changes have been underlined in the text.

The Preparatory Committee prepared a new chapter on Economic Development. In the draft which follows, that chapter has been inserted between the chapters on Employment and General Commercial Policy.

*For explanation refer to Exhibit III–A. For action by interim drafting committee which met in New York in January 1947, see Appendix of Part I.

SUMMARY OF PROVISIONS

I. *The Charter as a Whole*

The ITO Charter seeks to accomplish five main things: (1) to promote the maintenance of employment in Member countries, (2) to promote the economic development of Member countries, (3) to bring about the general relaxation and regulation of barriers to world trade, whether such barriers are imposed by governments or private organizations, (4) to provide an orderly procedure under agreed rules for the negotiation of intergovernmental commodity arrangements, and (5) to create permanent international machinery for consultation and collaboration in trade and related matters.

The provisions of the Charter are set forth in eight chapters and 89 articles, as follows:

[Chapter I. Establishes the broad purposes of the International Trade Organization (article 1).]

Chapter II. Regulates membership in the Organization (article 2).

Chapter III. Provides for the maintenance of employment, the development of resources and productivity, and the promotion of labor standards (articles 3 through 9).

Chapter IV. Provides for the promotion of the industrial and general economic development of Member countries (articles 10 through 13).

Chapter V. Provides for the reduction of governmental barriers of all kinds and for the elimination of trade discriminations (articles 14 through 38).

Chapter VI. Provides for concerted action to eliminate restrictive business practices in international trade (articles 39 through 45).

Chapter VI. Regulates the making of intergovernmental commodity agreements (articles 46 through 60).

Chapter VIII. Creates the machinery for an International Trade Organization to facilitate the operation of the Charter and to promote continuing international cooperation in trade and related matters (articles 61 through 89).

II. *Summary of Detailed Provisions*

Chapter I. Purposes

[Chapter I sets forth the broad purposes of the ITO. These are: to promote the cooperative solution of trade problems; to expand opportunities for trade and economic development; to aid the industrialization of underdeveloped countries; and in general to promote the expansion of the production, exchange and consumption of goods, the reduction of tariffs and other trade barriers and the elimination of trade discriminations.]

Chapter II. Membership

Chapter II looks toward broad membership in the Organization. It provides for two general categories of members: original members and other members. Original members would be all those countries which are represented at the proposed international Conference on Trade and Employment and which accept the ITO Charter by a certain date. Other countries would be brought in with the approval of the Organization after it had become established.

Chapter III. Employment

Chapter III recognizes that the maintenance of employment and o a high and rising demand for goods and services is essential to achieve the purposes of the ITO and, reciprocally, that measures to promote employment and demand should be consistent with these purposes. Accordingly, each Member of the ITO would agree to take action designed to achieve and maintain employment and demand within its own jurisdiction through measures appropriate to its political and economic institutions; and to participate in arrangements for the collection, analysis, and exchange of information on employment problems and in consultations on employment policies.

The Economic and Social Council would have the responsibility for furthering the employment objectives of the Charter. These matters are placed under the Economic and Social Council rather than under the ITO because the Council has been given the broad function of promoting full employment by the Charter of the United Nations, and also because the Council, by virtue of its authority to coordinate the many specialized international agencies whose activities contribute to the maintenance of employment, is better fitted for this work than the ITO.

Chapter III also provides that Members will take action designed to develop their economic resources and raise their standards of productivity; will take such action as may be appropriate and feasible to eliminate substandard labor conditions; and will cooperate in action designed to remove fundamental maladjustments in balances of payments.

Chapter IV. Economic Development

Chapter IV recognizes the importance of bringing about the industrial and general economic development of all countries, particularly underdeveloped countries. Accordingly, Members would undertake to promote their own development and would agree to cooperate, through the Economic and Social Council of the United Nations and by other means, to promote industrial and economic development generally. Members would agree on the one hand not to put any unreasonable restraints on the export of facilities, such as capital and equipment, which are needed for the economic development of other countries, and, on the other hand, not to take any unreasonable action injurious to foreign investors who are supplying facilities for development. It would be recognized that governmental assistance, including protective measures, may be needed in some cases to promote the establishment of particular industries; at the same time it would also be recognized that the unwise use of protection will frustrate sound development and damage international trade. Protective measures which run contrary to the provisions of chapter V of the Charter (relating to the relaxation of trade barriers) may not be used except with the specific approval of the Organization and, in appropriate cases, with that of countries whose trade may be directly affected.

Chapter V. General Commercial Policy

Chapter V, the longest in the Charter, provides for the reduction or elimination of governmental barriers to international trade. Broadly, these barriers take the form of excessive customs regulations of all kinds; tariffs; embargoes and quotas; exchange restrictions on trade; governmental subsidization of production or exports; restrictive practices by state-trading enterprises; and the discriminatory application of trade barriers and controls generally.

Chapter V contains provisions relating to all these types of trade barriers and to connected matters. The chapter is divided into ten sections, as follows:

Section title	*Short description of section*
Section A (General Commercial Provisions)	Establishes equality of treatment in trade generally. [Eliminates or regulates various administrative devices which hamper imports or discriminate in trade. Requires full publication of trade regulations and advance notice of restrictive regulations.]
Section B (Tariffs and Preferences)	Requires reciprocal negotiations for the substantial reduction of tariffs and for the elimination of import tariff preferences.

Section title	*Short description of section*
Section C (Quantitative Restrictions and Exchange Restrictions)	Eliminates quotas and embargoes on trade in general, but permits them for agreed purposes under defined circumstances. Provides that exchange restrictions on trade shall not be permitted to frustrate the ITO Charter.
Section D (Subsidies)	Requires that subsidies affecting trade be reported to the ITO; that those seriously prejudicing trade be subject to negotiated limitations; and that export subsidies in general be eliminated except under defined circumstances.
Section E (State Trading)	Requires that state-trading enterprises be operated in a nondiscriminatory manner; that state monopolies of individual products negotiate for the reduction of protection afforded to domestic producers; [and that complete state monopolies of all foreign trade agree to maintain total imports of all products at a level to be negotiated periodically].
Section F (Emergency Provisions — Consultation — Nullification or Impairment)	Permits withdrawal or modification of tariff or other concessions in case of serious injury to domestic producers; provides for consultation with ITO on all phases of chapter V; permits Members to withdraw concessions from countries which do not live up to obligations of Charter.
Section G (Relations with Non-Members)	[Prohibits agreements with non-members promising them benefits of Charter; prevents Members, after an initial period, from extending tariff concessions to non-members without ITO approval.]
Section H (Exceptions)	[Excepts from chapter V measures usually excepted from commercial agreements (e.g. sanitary regulations, traffic in arms, and the like).]
Section I (Territorial Application)	Applies chapter V to customs territories of Members; permits special advantages to promote frontier traffic or arising out of customs unions

Chapter VI. Restrictive Business Practices

Under chapter VI Members of the ITO would agree to take appropriate individual and collective measures to eliminate restrictive business practices in international trade whenever they have harmful effects on the expansion of trade or on any of the purposes of the ITO. The chapter specifies certain practices which would be subject to investigation with a view to their elimination. Among these practices would be those which fix prices, allocate markets or customers, boycott or discriminate against enterprises outside the arrangement, limit production, suppress technology, and improperly use patents, trade-marks, and copyrights.

In order to carry out this policy a complaint procedure would be set up for taking action against particular instances of restrictive

business practices. Under this procedure the ITO would receive complaints from a Member, or from persons or business organizations within a Member's territory, that a particular business arrangement is restricting international trade with harmful effects. If the ITO found that the complaint was justified, it could recommend that Members take appropriate remedial action.

Members would agree to cooperate with the ITO in eliminating restrictive business practices. Among other things, they would agree to obtain and furnish to the ITO information needed by it in connection with particular investigations; to consult with the ITO regarding complaints which had been filed; and to take fullest account of ITO recommendations in initiating action to eliminate particular restrictive arrangements.

Chapter VII. Intergovernmental Commodity Arrangements

Chapter VII recognizes that in the case of certain commodities, usually primary agricultural products, special difficulties, such as a world surplus, may arise which would warrant the adoption of intergovernmental commodity agreements, including those which regulate production, trade, or prices. Such agreements would have to be consistent with certain general objectives and would need to satisfy certain conditions.

Regulatory commodity agreements would be justified if necessary 1) to enable countries to solve difficulties caused by surpluses without taking action inconsistent with the purposes of the Charter, 2) to avoid the serious distress to producers or labor caused by surpluses when production adjustments cannot be made quickly enough because of the lack of alternative employment opportunities, and 3) to provide a working arrangement for a transitional period during which measures may be taken to increase consumption of the surplus product or to facilitate the movement of resources and manpower out of the production of the surplus product into more remunerative lines.

It would be required that the Members concerned must formulate and adopt a program of economic adjustment designed to make progress toward solving the basic problem which gave rise to the proposal for a regulatory commodity agreement; that such agreements be open initially to all ITO Members on equal terms and that they afford equitable treatment to all Members (including those not participating in the agreement); that they provide for adequate representation by Members primarily interested in the commodity as consumers, and give consuming countries an equal vote with producing countries in deciding matters such as the regulation of prices, trade, production, stocks, and the like; that, where practicable, they provide for measures to expand consumption of the commodity in question; that they assure supplies of the product adequate to meet

world demand at reasonable prices; and that they make appropriate provision to satisfy world consumption from the most effective sources of supply.

Provision is made that full publicity must attend all important stages in the making of intergovernmental commodity agreements.

Chapter VIII. Organization

Chapter VIII of the Charter sets forth the functions and structure of the ITO and relates them to the substantive undertakings of Members provided for in the earlier chapters.

Functions. The functions of the ITO largely relate to its responsibilities in connection with chapter V (Commercial Policy), chapter VI (Restrictive Business Practices) and chapter VII (Commodity Agreements). In addition to functions of this kind, the ITO would be authorized to provide assistance and advice to Members and other international organizations in connection with specific projects of industrialization or other economic development; to promote international agreements such as those designed to facilitate the international movement of capital, technology, art, and skills, and those relating to commercial travelers, commercial arbitration, and the avoidance of double taxation; and to cooperate with the United Nations and other organizations on economic and social matters and on measures to maintain peace and security.

Structure. The principal organs of the ITO would be a Conference; an Executive Board; a Commission on Commercial Policy, a Commission on Business Practices, and a Commodity Commission; and a Secretariat.

The Conference. The governing body of the ITO would be the Conference on which each country belonging to the ITO would be represented. The decisions of the Conference on most matters would be taken by a simple majority vote of the Members present and voting, each country casting one vote.[1] The Conference would have final authority to determine the policies of the ITO. It would be authorized to make recommendations regarding any matter relating to the purposes of the ITO and to elect the members of the Executive Board.

Interim Tariff Committee. An Interim Tariff Committee within the ITO would be charged with the function of authorizing Members to withhold, if necessary, tariff reductions from other Members which failed to meet their obligations to negotiate for the substantial reduction of tariffs and the elimination of preferences. The Committee would consist of those Members of the ITO which had already fulfilled

[1] A minority of the Preparatory Committee favored the use of a system of weighted voting in the Conference.

these requirements among themselves.[2] Other Members of the ITO would be entitled to join the Committee upon the completion by them of adequate negotiations regarding tariffs and preferences. All decisions of the Committee would be taken by majority vote, each Member casting one vote.

Executive Board. The Executive Board would consist of fifteen Members of the ITO elected by the Conference every three years. [NOTE: Under alternative drafts of the appropriate article permanent membership on the Board by Members of chief economic importance would be provided for.] Decisions of the Board would be taken by a majority of the Members present and voting, each country casting one vote. The Board would be responsible for executing the policies of the ITO and for exercising powers delegated to it by the Conference. It would be authorized to make recommendations to Members of the ITO, to the Conference, and to other international organizations.

The Board would be required to provide adequate machinery to review the work of the ITO as it relates to industrialization and other economic development.

The Commissions. The Commission on Commercial Policy, the Commission on Business Practices, and the Commodity Commission would be established by the Conference and would be responsible to the Executive Board. The Conference would be authorized to establish any other commissions which might in time be required.

The Commissioners would be expert persons appointed by the Board in their personal capacities. The chairmen of the commissions could participate, without vote, in the meetings of the Board and of the Conference. Other international organizations having a special interest in the activities of one of the commissions might be invited to participate in its work.

The functions of the three commissions are concerned largely with the making of recommendations to the Executive Board relating to the discharge of the ITO's responsibilities in the three specialized fields. In addition, the commissions would perform any other functions assigned to them by the Conference or the Board, including such functions in connection with the settlement of disputes as the Board might deem appropriate.

Secretariat. The Secretariat of the ITO would consist of a Director General and such staff as might be required.

[2] Initially, the Interim Tariff Committee would consist of those Members which had made effective the agreement for concerted reduction of tariffs and trade barriers which it is hoped will be concluded by the countries already invited by the United States to negotiate for this purpose. It is contemplated that the agreement would incorporate schedules of tariff concessions and certain of the provisions of chapter V of the Charter (e.g. those relating to most-favored-nation treatment, to national treatment on internal taxes and regulations, to quantitative restrictions, etc.).

The Director General would be appointed by the Conference upon the recommendation of the Board. He could participate in the deliberations of the Board, the Conference, and the commissions, and initiate proposals for consideration by any organ of the ITO.

Miscellaneous provisions. These provisions largely parallel similar provisions in the constitutions of other international organizations. They deal with relations between the ITO and other organizations, the international responsibilities of the staff of the ITO, legal capacity of the ITO, privileges and immunities of the ITO, amendments to the Charter, interpretation and settlement of legal questions, contributions of Members, entry into force of the Charter, and withdrawal from the ITO and termination of the Charter.

CONTENTS

(For contents, use figures in [ ])

	Page
Foreword	I
Summary of Provisions	III
Establishment*	1
CHAPTER I. PURPOSES	
Article 1. General Purposes of the Organization*	1
CHAPTER II. MEMBERSHIP	
Article 2. Membership	1
CHAPTER III. EMPLOYMENT	
Article 3. Relation of Employment to the Purposes of the Organization	2
Article 4. The Maintenance of Domestic Employment	2
Article 5. The Development of Domestic Resources and Productivity	3
Article 6. Fair Labor Standards	3
Article 7. The Removal of Maladjustments in the Balance of Payments	3
Article 8. Safeguards for Countries Subject to External Deflationary Pressure	3
Article 9. Consultation and Exchange of Information on Matters Relating to Employment	3
CHAPTER IV. ECONOMIC DEVELOPMENT	
Article 10. Importance of Economic Development	4
Article 11. Plans for Economic Development	4
Article 12. Means of Economic Development	4
Article 13. Governmental Assistance to Economic Development	5
CHAPTER V. GENERAL COMMERCIAL POLICY	
SECTION A. General Commercial Provisions	
Article 14. General Most-Favored-Nation Treatment	6
Article 15. National Treatment on Internal Taxation and Regulation*	7
Article 16. Freedom of Transit*	7
Article 17. Antidumping and Countervailing Duties*	8
Article 18. Tariff Valuation*	9
Article 19. Customs Formalities*	9
Article 20. Marks of Origin*	10
Article 21. Publication and Administration of Trade Regulations—Advance Notice of Restrictive Regulations*	11
Article 22. Information, Statistics, and Trade Terminology*	12
Article 23. Boycotts*	14
SECTION B. Tariffs and Tariff Preferences	
Article 24. Reduction of Tariffs and Elimination of Preferences	14

*Asterisks indicate that these articles have been taken from the United States *Suggested Charter* and have been included in square brackets (see Foreword).

CHAPTER V. General Commercial Policy—Con.

Section C. Quantitative Restrictions and Exchange Control

Page

Article 25. General Elimination of Quantitative Restrictions 15
Article 26. Restrictions To Safeguard the Balance of Payments. 17
Article 27. Nondiscriminatory Administration of Quantitative Restrictions 20
Article 28. Exceptions From the Rule of Nondiscrimination 22
Article 29. Exchange Arrangements 23

Section D. Subsidies

Article 30. General Undertaking Regarding Subsidies—Elimination of Export Subsidies—Exceptions 24

Section E. State Trading

Article 31. Nondiscriminatory Administration of State-Trading Enterprises 26
Article 32. Expansion of Trade by State Monopolies of Individual Products 27
Article 33. Expansion of Trade by Complete State Monopolies of Import Trade* 28

Section F. Emergency Provisions—Consultation

Article 34. Emergency Action on Imports of Particular Products 29
Article 35. Consultation—Nullification or Impairment 29

Section G. Relations With Non-Members

Article 36. Contractual Relations with Non-Members—Treatment of Trade of Non-Members* 30

Section H. General Exceptions

Article 37. General Exceptions to Chapter V* 31

Section I. Territorial Application

Article 38. Territorial Application of Chapter V—Customs Unions—Frontier Traffic 31

CHAPTER VI. Restrictive Business Practices

Article 39. Policy Toward Restrictive Business Practices 32
Article 40. Procedure With Respect to Complaints and Conferences . . . 33
Article 41. Studies Relating to Restrictive Business Practices 34
Article 42. Obligations of Members 35
Article 43. Supplementary Enforcement Arrangements 36
Article 44. Continued Effectiveness of Domestic Measures Against Restrictive Business Practices 36
Article 45. Exceptions to Provisions of This Chapter 36

CHAPTER VII. Intergovernmental Commodity Arrangements

Section A. General Considerations

Article 46. General Statement on Difficulties Relating to Primary Commodities 36
Article 47. Objectives of Intergovernmental Commodity Arrangements . 37

*Asterisks indicate that these articles have been taken from the United States *Suggested Charter* and have been included in square brackets (see Foreword).

CHAPTER VII. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS—Continued

SECTION B. Intergovernmental Commodity Arrangements in General

Page

Article 48. Special Commodity Studies 37
Article 49. Commodity Conferences 38
Article 50. Relations With Specialized Agencies 38
Article 51. General Principles of Intergovernmental Commodity Arrangements 38

SECTION C. Intergovernmental Commodity Agreements Involving the Regulation of Production, Trade, or Prices

Article 52. Circumstances Governing Use of Regulatory Agreements . . 39
Article 53. Additional Principles Governing Regulatory Agreements . . 40
Article 54. Administration of Regulatory Agreements 41
Article 55. Provision for Initial Terms, Review, and Renewal of Regulatory Agreements 41
Article 56. Settlement of Disputes 41

SECTION D. Miscellaneous Provisions

Article 57. Obligations of Members Regarding Existing and Proposed Commodity Arrangements 42
Article 58. General Undertaking by Members 42
Article 59. Exceptions to Provisions Relating to Intergovernmental Commodity Arrangements 42
Article 60. Definitions 43

CHAPTER VIII. ORGANIZATION

SECTION A. Functions and Structure of the Organization

Article 61. Functions of the Organization 44
Article 62. Structure of the Organization 45

SECTION B. The Conference

Article 63. Membership 45
Article 64. Voting 45
Article 65. Sessions, Procedure, and Officers 45
Article 66. Powers and Duties 45

SECTION C. Interim Tariff Committee

Article 67. Interim Tariff Committee 46

SECTION D. The Executive Board

Article 68. Membership 47
Article 69. Voting 49
Article 70. Sessions, Procedures, and Officers 49
Article 71. Powers and Duties 49

SECTION E. The Commissions

Article 72. Establishment 50
Article 73. Composition and Procedure 50
Article 74. General Functions 50
Article 75. Functions of the Commission on Commercial Policy* 50
Article 76. Functions of the Commission on Business Practices 51
Article 77. Functions of the Commodity Commission 52

*Asterisks indicate that these articles have been taken from the United States *Suggested Charter* and have been included in square brackets (see Foreword).

CHAPTER VIII. ORGANIZATION—Continued

SECTION F. The Secretariat

Page

Article 78. Composition 52
Article 79. The Director General 53
Article 80. Employment of Staff 53

SECTION G. Miscellaneous Provisions

Article 81. Relations With Other Organizations 53
Article 82. International Responsibilities of Personnel of the Organization . 54
Article 83. Legal Capacity of the Organization 55
Article 84. Privileges and Immunities of the Organization 55
Article 85. Amendments to the Charter 55
Article 86. Interpretation and Settlement of Disputes 55
Article 87. Payment of Contribution 56
Article 88. Entry Into Force 56
Article 89. Withdrawal and Termination 57

ANNEXURES

Annexure A. List of Territories Referred to in Subparagraph 2 (*a*) (ii) of Article 14 58
Annexure B. Assignment of Functions With Respect to Intergovernmental Commodity Arrangements 59
Cross-Reference Index 61

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ESTABLISHMENT

[The International Trade Organization of the United Nations is hereby established and shall operate in accordance with the following provisions:]

CHAPTER I. PURPOSES

Article 1. General Purposes of the Organization

[The purposes of the Organization shall be:

[1. To promote the solution of problems in the field of international commercial policies and relations through consultation and collaboration among Members.

[2. To enable Members to avoid recourse to measures destructive of world commerce by providing, on a reciprocal and mutually advantageous basis, expanding opportunities for their trade and economic 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. In general, to promote national and international action for the expansion of the production, exchange and consumption of goods, for the reduction of tariffs and other trade barriers, and for the elimination of all forms of discriminatory treatment in international commerce; thus contributing to an expanding world economy, to the establishment and maintenance in all countries of high levels of employment and real income, and to the creation of economic conditions conducive to the maintenance of world peace.

[5. To provide a centralized agency for the coordination of the work of Members to the above ends.]

CHAPTER II. MEMBERSHIP

Article 2. Membership

1. The original Members of the Organization shall be those countries represented at the United Nations Conference on Trade and Employment which accept the provisions of this Charter by December 31, 194_ or, in the event that this Charter has not entered into

force by that date, the countries which agree to bring this Charter into force pursuant to the proviso to paragraph 3 of article 88.

2. Membership in the Organization shall be open to such other countries as accept the provisions of this Charter, subject to the approval of the Conference.

3. The Conference shall establish procedures that 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

Article 3. Relation of Employment to the Purposes of the Organization

1. Members recognize that the avoidance of unemployment or underemployment through the achievement and maintenance in each country of useful employment opportunities for those able and willing to work and of 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 and, in general, for the realization of the purposes of the Organization. They also recognize that measures to sustain demand and employment should be consistent with the other purposes and provisions of the Organization, and that in the choice of such measures, each country should seek to avoid creating balance of payments difficulties for other countries.

2. They 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, be supplemented by international action sponsored by the Economic and Social Council of the United Nations and carried out in collaboration with the appropriate intergovernmental organizations, acting within their respective spheres and consistently with the terms and purposes of their basic instruments.

Article 4. The Maintenance of Domestic Employment

Members shall take action designed to achieve and maintain full and productive employment and high and stable levels of effective demand within their own jurisdictions through measures appropriate to their political and economic institutions and compatible with the other purposes of the Organization.

Article 5. The Development of Domestic Resources and Productivity

Members, recognizing that all countries have a common interest in the productive use of the world's resources, agree to take action designed progressively to develop economic resources and to raise standards of productivity within their jurisdiction through measures compatible with the other purposes of the Organization.

Article 6. Fair Labor Standards

Members, recognizing that all countries have a common interest in the maintenance of fair labor standards, related to national productivity, agree to take whatever action may be appropriate and feasible to eliminate substandard conditions of labor in production for export and generally throughout their jurisdiction.

Article 7. 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 8. Safeguards for Countries Subject to External Deflationary Pressure

The Organization shall have regard, in the exercise of its functions as defined in the other articles of this Charter, to the need of Members to take action within the provisions of the 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 9. Consultation and Exchange of Information on Matters Relating to Employment

Members agree to participate in arrangements undertaken or sponsored by the Economic and Social Council of the United Nations, including arrangements with the appropriate intergovernmental organizations:

(*a*) for the regular 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; and

(*b*) for consultation with a view to concerted action on the part of governments and intergovernmental organizations in the field of employment policies.

CHAPTER IV. Economic Development

Article 10. Importance of Economic Development

Members recognize that the industrial and general economic development of all countries and in particular of those countries whose resources are as yet relatively undeveloped will improve opportunities for employment, enhance the productivity of labor, increase the demand for goods and services, contribute to economic stability, expand international trade, and raise levels of real income, thus strengthening the ties of international understanding and accord.

Article 11. Plans for Economic Development

1. Members undertake to promote the continuing industrial and general economic development of their respective countries and territories in order to assist in realizing the purposes of the Organization.

2. Members agree that they will cooperate through the Economic and Social Council of the United Nations and the appropriate intergovernmental organizations in promoting industrial and general economic development.

(3. The Organization, at the request of any Member, shall advise such Member concerning its plans for economic development and, within its competence and resources, shall provide such Member with technical assistance in completing its plans and carrying out its programs.) [1]

Article 12. Means of Economic Development

1. Members recognize that progressive economic development is dependent upon the availability of adequate supplies of:

(*a*) capital funds; and

(*b*) materials, equipment, advanced technology, trained workers and managerial skill.

2. Members agree to impose no unreasonable impediments that would prevent other Members from obtaining access to facilities required for their economic development.

3. Members agree to cooperate within the limits of their power to do so, with the appropriate intergovernmental organizations of which they are members in the provision of such facilities.

4. Members agree that, in their treatment of other Members, business entities, or persons supplying them with facilities for their industrial and general economic development, not only will they con-

[1] This paragraph was adopted provisionally by the Preparatory Committee pending receipt of advice (before the spring meeting of the Preparatory Committee) from the Economic and Social Council as to whether it was in accordance with the Council's views on the appropriate allocation of functions among the various specialized international agencies.

form to the provisions of their relevant international obligations, now in effect, or which they may undertake pursuant to article 61 (5) or otherwise, but also that in general they will take no unreasonable action injurious to the interest of such other Members, buiness entities, or persons.

5. The Organization shall receive from any affected Member, or with the permission of that Member from business entities or persons within its jurisdiction, complaints that action by another Member is inconsistent with its obligations under paragraphs 2, 3, or 4. In the event of such complaint, the Organization may, at its discretion, request the Members concerned to enter into consultation with a view to reaching a mutually satisfactory settlement and lend its good offices to this end.

Article 13. Governmental Assistance to Economic Development

1. 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.

2. Members recognize that an unwise use of such protection 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.

3. (*a*) If a Member, in the interest of its program of development, proposes to employ any protective measures which would conflict with any of its obligations under or pursuant to the Charter, it shall inform the Organization and shall transmit to the Organization any finding in support of this proposal. The Organization shall promptly inform those Members whose trade would be substantially affected by the proposal and afford them an opportunity to present their views. The Organization shall then promptly examine the proposal in the light of the provisions of this chapter, the findings presented by the applicant Member, the views presented by Members substantially affected, 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 Member.

(*b*) If, as a result of its investigations pursuant to subparagraph (*a*), the Organization determines upon any measure which would be inconsistent with any obligation that the applicant Member has assumed through negotiation with other Members pursuant to chapter V or would reduce the benefit to such other Members of any such obligation, the Organization shall sponsor and assist in negotiations between the applicant Member and other Members substantially affected, with a view to obtaining substantial agreement. Upon such agreement being reached the Organization may release the applicant Member from the obligation in question or from any other

relevant obligation under the Charter, subject to such limitations as the Organization may impose.

(c) If, as a result of its investigations pursuant to subparagraph (a), the Organization concurs in any measure other than those covered in subparagraph (b), which would be inconsistent with any obligation assumed under this Charter the Organization may, in its discretion, release the applicant Member from the obligation in question subject to such limitations as the Organization may impose.

CHAPTER V. General Commercial Policy

Section A. General Commercial Provisions

Article 14. General Most-Favored-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 affected by the provisions relating to national treatment in article 15, any advantage, favor, privilege, or immunity granted by any Member country 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.

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 and other charges imposed on importation which do not exceed the preferences remaining after the negotiations contemplated in article 24, and which fall within the descriptions set forth in (a), (b), or (c) below:

(a) Preferences in force exclusively

(i) between territories in respect of which there existed on July 1, 1939 common sovereignty or relations of protection or suzerainty, or

(ii) between the territories comprised in Annexure A to this Charter.

Each Member to which provision (i) applies shall provide a list of such territories, which lists shall be incorporated in a further annexure.

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

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

Article 15. National Treatment on Internal Taxation and Regulation

[1. The products of any Member country imported into any other Member country shall be exempt from internal taxes and other internal charges higher than those imposed on like products of national origin, and shall be accorded treatment no less favorable than that accorded like products of national origin in respect of all internal laws, regulations or requirements affecting their sale, transportation or distribution or affecting their mixing, processing, exhibition, or other use.[1] 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, exhibited, or used.

[2. The Members recognize that the imposition of internal taxes on the products of other Member countries, for the purpose of affording protection to the domestic production of competitive products, would be contrary to the spirit of this Article, and they agree to take such measures as may be open to them to prevent in the future the adoption of new or higher taxes of this kind within their territories.]

Article 16. Freedom of Transit

[1. 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.

[2. Any Member 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 other Member countries shall be exempt from the payment of any transit duty, customs duty, or similar charge, and shall not be subject to any unnecessary delays or restrictions.

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

[4. With respect to all charges, rules, and formalities in connection with transit, each Member shall accord to traffic in transit to or from any other Member country treatment no less favorable than the treatment accorded to traffic in transit to or from any other country.

[5. Each Member shall accord to products which have been in transit through any other Member country treatment no less favorable than that which would have been accorded to such products had they been transported from their origin to their destination without going through such other Member country.

[1] A clause relating to purchases of supplies by governmental agencies for public use has been deleted. See par. 2, art. 31.

[6. Persons, baggage and goods, and also vessels, coaching and goods stock, 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 transshipment, 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 transit takes place. Traffic of this nature is termed in this Article "traffic in transit."]

Article 17. Antidumping and Countervailing Duties

[1. No antidumping duty 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 a product exported from one country to another is less than (*a*) the comparable price charged for the like or similar product to buyers in the domestic market of the exporting country, or, (*b*) in the absence of such domestic price, the highest comparable price at which the like or similar product is sold for export to any third country or (*c*) in the absence of (*a*) and (*b*), the cost of production of the product in the country of origin; 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 any other Member country in excess of an amount equal to the estimated bounty or subsidy ascertained to have been granted, directly or indirectly, on the production or export of such product in the country of origin or exportation.

[3. No product of any Member country imported into any other Member country shall be subject to antidumping 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.

[4. No product of any Member country imported into any other Member country shall be subject to both antidumping and countervailing duty to compensate for the same situation of dumping or export subsidization.

[5. Each Member undertakes that as a general rule it will not impose any antidumping duty or countervailing duty on the importation of any product of other Member countries unless it determines that the dumping or subsidization, as the case may be, under which such product is imported, is such as to injure or threaten to injure a domestic industry, or is such as to prevent the establishment of a domestic industry.]

Article 18. Tariff Valuation

[1. 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 restrictions based upon or regulated in any manner by value. With a view to furthering such cooperation, the Organization is authorized to investigate and recommend to Members such bases and methods for determining the value of products as would appear to be best suited to the needs of commerce and most capable of widespread adoption.

[2. The Members recognize the validity of the following general principles of tariff valuation, and they undertake to give effect to such principles, in respect of all products subject to duty based upon or regulated by value, at the earliest practicable date:

[(*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 used on the value of products of national origin or on arbitrary or fictitious valuations.

[(*b*) The value for duty purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export, from which the imported product has been 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, and until the elimination of dual or multiple rates of exchange either one or more than one rate for each dual- or multiple-rate currency may be so fixed.

[(*d*) The bases and methods for determining the value of products subject to duties regulated by value should be stable and should be published in full detail, in order that traders may be enabled to estimate, with a reasonable degree of certainty, the amount of duty likely to be imposed.]

Article 19. Customs Formalities

[1. The Members 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 com-

plexity of import and export formalities, and for decreasing and simplifying import and export documentation requirements.

[2. Members undertake to review their customs laws and regulations with a view to giving effect to the principles and objectives of paragraph 1 of this Article at the earliest practicable date and shall report to the Organization from time to time on the progress made. The Organization is authorized to request such reports of Members and to assist and cooperate with them in carrying out the provisions of this paragraph.

[3. Greater than nominal penalties shall not be imposed by any Member in connection 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. Moreover, Members shall remit any penalty imposed on or in connection with the importation of any product of any other Member country if it is officially found that the penalty has been imposed because of actions which resulted from errors or advice of responsible customs officials.

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

[(*a*) Consular transactions;
[(*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 (plant, animal and human).]

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 favorable than the treatment accorded like products of any third country.

[3. Whenever administratively possible, Members shall permit required marks of origin to be imposed at the time of importation.

[4. The laws and regulations of the 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 shall exempt from their marking requirements the following products:

[(*a*) Products incapable of being marked;

[(*b*) Products which cannot be marked except at unreasonable expense;

[(*c*) Products in transit and their containers;

[(*d*) Products in bond and their containers;

[(*e*) Samples and products without commercial value and their containers;

[(*f*) Containers of properly marked products of a type not ordinarily imported and sold at retail in sealed containers;

[(*g*) Products of a type ordinarily imported and sold at retail in sealed containers, provided such containers are properly marked;

[(*h*) Products over 20 years old and their containers;

[(*i*) Products intended for the personal use of the importer or his family or for use in his factory or place of business, and not intended for sale, and the containers of such products;

[(*j*) Crude substances and raw materials; and also the containers of such products if the products are intended for use by the person for whom the importation is made, or for his account in manufacturing new and different products.

[6. No special duty or penalty shall be imposed by any Member for failure to comply with the marking requirements prior to importation unless corrective marking has been unreasonably delayed or false marks have been intentionally affixed or the required marking has been intentionally omitted.]

Article 21. Publication and Administration of Trade Regulations—Advance Notice of Restrictive Regulations

[1. Laws, regulations, decisions of judicial authorities and administrative rulings of general application made effective by any Member, pertaining to the classification or 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 or distribution, 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 a 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 publish administrative rulings which would disclose confidential

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information, impede law enforcement, or otherwise be inimical to the public interest.

[2. Members shall administer in a uniform, impartial and reasonable manner all laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article. Moreover, they undertake to maintain, or to establish as soon as practicable, for the review and correction of administrative action relating to customs matters, judicial or administrative tribunals which are in fact independent of the agencies entrusted with administrative enforcement. Finally, each Member will enforce all measures necessary to suppress and prevent the exaction of charges and the prescription of requirements in respect of international trade which are not provided for in its published laws or regulations.

[3. No law, regulation, decision or ruling of any Member effecting an advance in a rate of import or export duty or other charge under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports or exports or on the transfer of payments therefor, shall, as a general rule, be applied to products of any other Member already en route 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 or withdrawn from warehouse for consumption, or cleared for export, 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 antidumping or countervailing duties.]

Article 22. Information, Statistics, and Trade Terminology

[1. Members agree to make available promptly to the Organization, in as detailed and accurate a manner as practicable, such statistics relating to their foreign trade as the Organization deems necessary in connection with the fulfillment of its functions, including as the minimum essential to the effective discharge of its duties data on the following subjects:

[(*a*) Exports and imports of merchandise, distinguishing in so far as possible the movement of transit trade, and taking into account the desirability of uniformity in international trade statistics;

[(*b*) Governmental revenue from import and export duties and from other taxes imposed on products moving in international trade, and subsidy payments affecting such trade.

[2. Statistics of exports and imports of merchandise furnished to the Organization shall so far as practicable be related to tariff classifications and shall be in such form as to reveal the operation of any restrictions on importation or exportation which are based upon or

regulated in any manner by quantity or value, or by amounts of exchange made available.

[3. Members agree to make available to the Organization, in as detailed and accurate a manner as practicable, such statistics on other economic subjects as the Organization deems necessary in connection with the fulfillment of its functions, and in particular statistics relating to balances of payments and prices, so far as the statistics are not being furnished to any other international organization having functions to which the statistics are more particularly related and from which the Organization can obtain the required information.

[4. The Organization shall act as a center for the collection and exchange of statistical and other information relating to international trade, thus facilitating the preparation of studies designed to assist Members in developing policies which further the purposes of this Charter. The Organization shall make such data available to the Economic and Social Council of the United Nations and to other interested international organizations and shall, in cooperation with these organizations, seek to bring about improvements in the methods of collecting, analyzing and publishing economic statistics particularly those relating to international trade, and to promote the international comparability of such statistics, including the international adoption of standard commodity classifications. The Organization shall also, in cooperation with such other organizations, compile and publish summary comparative statistics relating to the subjects specified in paragraph 1 of this Article.

[5. Members agree to publish the statistics referred to in paragraph 1 of this Article promptly and in as much detail as practicable and to cooperate with the Organization in carrying out the objectives of paragraph 1 of this Article.

[6. Members undertake to cooperate with the Organization in promoting the international adoption of standard definitions of terms customarily used in commercial practice, and in developing standards to which goods may be manufactured or graded. Members undertake to cooperate in introducing such standards as are found to be desirable and practicable to encourage the freer movement of goods in international trade.

[7. The Organization, in cooperation with the other organizations referred to in paragraph 4 of this Article, may adopt standards, nomenclature, terms and forms to be used in official documents and statistics of Members in the field of international trade. Such standards, nomenclature, terms or forms shall automatically become effective as to all Members of the Organization after notice has been given of their adoption by the Organization, except for such Members as may notify the Director General of rejection or reservations within the period stated in the notice, which period shall be not less than six months.]

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 other Member countries on grounds of origin, or the sale of products for consumption within other Member countries on grounds of destination. Moreover, each Member shall discourage, by such means as may be available to it, such campaigns by political entities within its jurisdiction.]

SECTION B. Tariffs and Tariff Preferences

Article 24. Reduction of Tariffs and Elimination of Preferences

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 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-favored-nation import tariffs shall operate automatically to reduce or eliminate margins of preference.

(*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 of this article 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 fulfil its obligations under paragraph 1, such Member may refer the matter to the Organization, which shall investigate the matter 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, 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 withhold 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. 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 60 days after such action is taken, to withdraw from the Organization upon the expiration of 60 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.

SECTION C. Quantitative Restrictions and Exchange Control

Article 25. General Elimination of Quantitative Restrictions

1. Except as otherwise provided elsewhere in this Charter, no prohibition or restriction, other than duties, taxes, or other charges, whether made effective through quotas, import licenses, or other measures, shall be imposed or maintained by any Member on the importation of any product of any other Member or on the exportation or sale for export of any product destined for any other Member.

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

(*a*) Prohibitions or restrictions on imports or exports imposed 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, or,

(ii) the maintenance of wartime price control by a country undergoing shortages subsequent to the war, or

(iii) the orderly liquidation of temporary surpluses of stocks owned or controlled by the government of any Member or of industries developed in the territory of any Member owing to the exigencies of the war which it would be uneconomic to maintain in normal conditions:

Provided, that restrictions under (iii) of this subparagraph may be imposed by any Member only after consultation with other interested Members with a view to appropriate international action. Import and export prohibitions and restrictions imposed or maintained under this subparagraph shall be removed as soon as the conditions giving

rise to them have ceased, and in any event, not later than July 1, 1949:

Provided, that this period may, with the concurrence of the Organization, be extended in respect of any product for further periods not to exceed six months each.

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

(*c*) Import and export prohibitions or restrictions necessary to the application of standards for the classification and grading of commodities in international commerce. If, in the opinion of the Organization, the standards adopted by a Member under this subparagraph 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 imposed under intergovernmental 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.

(*f*) Any Member imposing restrictions on the importation of any product pursuant to subparagraph (*e*) shall give public notice of the total quantity or value of the product permitted to be imported during a specified period and of any change in such quantity or value (*provided* that any supplies of the product in question which were en route at the time at which public notice was given shall not be excluded but may be counted, so far as practicable, against the quantity permitted to be imported in the period in question).[2] Moreover, any restrictions imposed under (i) of subparagraph (*e*) 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

[2] The Preparatory Committee recommended that the words in parentheses in 2 (*f*) should be retained only if the matter was not fully covered in art. 21.

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.

(*g*) Import and export prohibitions or restrictions imposed 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, and 33.

Article 26. Restrictions To Safeguard the Balance of Payments

1. Members may need import restrictions as a means of safeguarding their external financial position and as a step towards the restoration of equilibrium on a sound and lasting basis, particularly in view of their increased demand for the imports needed to carry out their domestic employment, reconstruction, development or social policies. Accordingly, notwithstanding the provisions of article 25, Members may restrict the quantity or value of merchandise permitted to be imported so far as this is necessary to safeguard their balance of payments and monetary reserves. The use of import restrictions under this paragraph shall conform to the conditions and requirements set out in paragraphs 2, 3, and 4.

2. Members undertake to observe the following principles in the use of such restrictions:

(*a*) To refrain from imposing new or intensifying existing restrictions except to the extent necessary (having due regard to any special factors which may be affecting the level of the Members' reserves, to any commitments or other circumstances which may be affecting its need for reserves, or to any special credits or other resources which may be available to protect its reserves):

(i) to stop or to forestall the imminent threat of a serious decline in the level of monetary reserves; or

(ii) in the case of a Member with very low monetary reserves to achieve a reasonable rate of increase in its reserves.

(*b*) To eliminate the restrictions when conditions would no longer justify the imposition of new restrictions under subparagraph (*a*), and to relax them progressively as such conditions are approached.

(*c*) Not to carry the imposition of new import restrictions or the intensification of existing restrictions under subparagraph (*a*) to the point at which it involves the complete exclusion of imports of any class of goods.

3. (*a*) Any Member which, while not imposing restrictions under paragraphs 1 and 2, is considering the need for the imposition of restrictions, before imposing such restrictions (or, in conditions in which previous consultation is impracticable, as soon as possible after imposing such restrictions) shall 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 which is imposing import restrictions under paragraphs 1 and 2 to consult with it about the form and extent of the restrictions, and shall invite a Member substantially intensifying such restrictions to consult accordingly within 30 days. Members agree to participate in such discussions when so invited. In the conduct of such discussions the Organization shall consult the International Monetary Fund and any other appropriate intergovernmental organizations, in particular in regard to the alternative methods available to the Member in question of meeting its balance of payments difficulties. The Organization under this subparagraph shall, within two years of its institution, review all restrictions existing at its institution and subsequently maintained under paragraphs 1 and 2.

(*c*) Any Member applying or intending to apply restrictions on imports under paragraphs 1 and 2 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. 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, imposition, or intensification of import restrictions by the Member in question 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 subparagraph (*d*) so far as it relates to conformity with paragraphs 1 and 2.

(*d*) Any Member which considers that any other Member is applying import restrictions under paragraphs 1 and 2 in a manner inconsistent with the provisions of those paragraphs or of articles 27 or 28, or in a manner which unnecessarily damages its commercial interests, may bring the matter for discussion to the Organization. The Member imposing the restrictions shall then participate in discussion of the reasons for its action. The Organization shall, if it is satisfied that there is a *prima facie* case that the complaining Member's interests are adversely affected, consider the complaint. It may then, after consultation with the International Monetary Fund on any matter falling within the competence of the Fund, 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 or of articles 27 or 28, or in a manner which unnecessarily damages the commercial interests of another Member. If restrictions are not withdrawn or modified in accordance with the recommendation of the Organization within 60 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.

(*e*) The Organization in reaching its decision under subparagraph (*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. Members agree, however, that in carrying out such domestic policies they will pay due regard to the need to restore sound and lasting equilibrium in their balances of payments.

4. In giving effect to the restrictions on imports imposed under this article, a Member may select imports for restriction on the grounds of essentiality in such a way as to promote its domestic employment, reconstruction, development, or social policies. In so doing the Member shall avoid all unnecessary damage to the commercial interest of other Members and will accept an invitation to consult with any other Member which considers its interests to be so damaged.

5. If there is persistent and widespread application of quantitative 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 International Monetary Fund, initiate discussions to consider whether other measures might not be taken, either by those countries whose balances of payments are under pressure or by those countries whose balances of payments are tending to be exceptionally favorable, or by any appropriate intergovernmental agency or organization [3] to remove the underlying causes of the disequilibrium. Members agree that they will take part in such discussions.

6. Throughout this section the phrase "quantitative import restrictions" includes the restriction of imports by state-trading organizations to an extent greater than that which would be permissible under article 32 (provided that no Member shall be required to disclose information which would hamper the commercial operations of such a state-trading organization).[4]

[3] The words "intergovernmental agency or organization" are intended to cover the Economic and Social Council of the United Nations.

[4] The Preparatory Committee recommended that the words in parentheses should be retained only if the matter is not adequately covered in the articles dealing with state-trading organizations.

7. Members recognize that in the early years of the Organization all of them will be confronted, in varying degrees, by 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.

Article 27. Nondiscriminatory Administration of Quantitative Restrictions

1. Subject to the provisions of article 28, no prohibition or restriction shall be applied by any Member pursuant to this section on the importation of any product of any other Member, or on the exportation of any product destined for any other Member 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. Pursuant to the principle set forth in paragraph 1, Members undertake in applying import restrictions to observe the provisions:

(*a*) Wherever practicable, global quotas (whether allocated among supplying countries or not) should be fixed, and notice given of their amount in accordance with subparagraph 3 (*b*).

(*b*) Where global quotas are not practicable, import restrictions may be applied by means of import licenses without a global quota.

(*c*) Import licenses or permits which may be issued in connection with import restrictions (whether or not within the limits of global quotas) shall not, save for purposes of operating quotas allocated in accordance with subparagraph (*d*), require or provide that the license or permit be utilized for the importation of the product concerned from a particular country or source.

(*d*) In cases where these methods of licensing are found impracticable or unsuitable, the Member concerned may apply the restrictions in the form of a quota allocated among supplying countries. In that event, the shares of the various Member supplying countries 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 Member applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other Members having substantial interest in supplying the product concerned. In cases where this method is not reasonably practical, the Member concerned should allot, to Member countries having a substantial interest in supplying the product, shares based upon the proportions of the total quantity or value of the product supplied by such Mem-

ber countries during a previous representative period, due account being taken of any special factors which may have affected or be affecting the trade in the product.

(*e*) No conditions or formalities shall be imposed which would prevent any Member country 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 as to the administration of the restriction and as to the import licenses granted over a past recent period and on 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 (whether or not allocated among supplying countries), 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.

(*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.

4. With regard to restrictions imposed in accordance with subparagraph 2 (*d*) or under subparagraph 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 imposing 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 with 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.

Article 28. Exceptions From the Rule of Nondiscrimination

1. The provisions of this section shall not preclude:

(*a*) restrictions with equivalent effect to exchange restrictions authorized under article VII, section 3 (*b*) of the Articles of Agreement of the International Monetary Fund;

(*b*) prohibitions or restrictions in accordance with subparagraphs 2 (*a*) (i) or 2 (*d*) of article 25;

(*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 26 which either:

(i) are applied otherwise consistently with article 27 against imports from other countries by a group of territories with common quota in the International Monetary Fund, or

(ii) assist in the period until December 31, 1951, by measures not involving substantial departure from the provisions of article 27, a country whose economy has been disrupted by war, or *both*

(iii) provide a Member with additional imports above the maximum total of imports which it could afford in the light of the conditions in paragraph 2 of article 26 if its restrictions were consistent with article 27, *and*

(iv) 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 imposing restrictions on payments and transfers for current international transactions may apply import restrictions under section (iii) 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, the Member shall within 60 days remove the discriminations or modify them as specified by the Organization:

Provided, that a Member may, if it so desires, consult with the Organization to obtain its previous approval for discriminations, under the

procedure set forth in subparagraph 3 (*c*) of article 26 and to the extent that such approval is given, the discriminations shall not be open to challenge under this paragraph.

3. When three quarters of the Members of the Organization have accepted the obligations of article VIII of the Articles of Agreement of the International Monetary Fund, but in any event before December 31, 1951, the Organization shall review the provisions of this article, in consultation with the International Monetary Fund, with a view to the earliest possible elimination of discriminations under subparagraphs 1 (*d*), (iii) and (iv) of this article, which restrict the expansion of world trade.

Article 29. Exchange Arrangements

1. The Organization shall seek cooperation with the International Monetary Fund to the end that the Fund and the Organization may pursue a coordinated 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 agree that they will not seek by exchange action to frustrate the purposes of this Charter, and that they will not seek by trade action to frustrate the purposes of the Articles of Agreement 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; [5]

Provided, (that any country which is willing to join the Organization but is unwilling to join the International Monetary Fund may become

[5] With respect to this paragraph the Preparatory Committee reported:

"It was agreed that the problem would be much simplified if all Members of the Organization were also Members of the International Monetary Fund. The Committee came to no decision on the question of requiring common membership, however, as some of the delegations felt it may well be necessary to allow freely for independent membership of the Organization and the Fund.

"Consideration was therefore given to the question whether special provision should not be made for a country which wished to become a Member of the Organization without becoming a Member of the Fund. It was generally recognized that some such provision might prove to be necessary, but it was thought that examination of this issue could usefully wait until the probable membership of the Organization and of the Fund became clearer. Pending this further examination, the Draft Article 29 in the Appendix to this Report has been expressed in a way which implies that Members of the Organization would in general be expected to be Members of the Fund, but that means could be provided for non-members of the Fund to join the Organization."

a Member of the Organization if it enters into a special exchange agreement with the Organization which would become part of its obligations 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 special exchange agreement between a Member and the Organization under paragraph 3 must provide to the satisfaction of the Organization, in collaboration 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.

5. A Member which has made a special exchange agreement under paragraph 3 of this article undertakes to furnish the Organization with such information as 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 this special exchange agreement.

6. The Organization shall seek and accept the opinion of the International Monetary Fund 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. Except as provided in paragraphs 2 and 4 of this article, if any Member establishes or maintains any subsidy, including any form of income or price support, to the domestic producers of any product, which operates to increase the exports of such product from, or to reduce the imports of such product into its territory, such Member shall notify the Organization in writing as to the extent and nature of the subsidization, as to the anticipated effect of the subsidization on the quantity of the product imported into and exported from the territory of the Member, and as to the conditions making the subsidization necessary. In any case in which it is determined that serious prejudice to the interest of any Member is caused or threatened by the operation of any such subsidization, the Member granting such subsidization shall undertake to discuss with the other Member or Members concerned, or with the Organization, the possibility of limiting the subsidization.

2. Except as provided in paragraph 4, no Member shall grant, directly or indirectly, any subsidy on the exportation of any product, or establish or maintain any other system which results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, due allowance being made for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability. The preceding sentence shall not be construed to prevent any Member from exempting exported products from duties or taxes imposed in respect of like products when consumed domestically or from remitting such duties or taxes which have accrued. The use of the proceeds of such duties or taxes to make payments to domestic producers would be considered as a case under paragraph 1. 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 a notice in writing to that effect, accompanied by a complete analysis of the practices in question and the facts justifying them and an indication as to the extension of the period desired. It shall then be determined whether the extension requested should be made.

3. A system for the stabilization of the domestic price of a primary product, which sometimes results in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, may be determined by the Organization not to be a subsidy on exportation under the terms of paragraph 2 if it has at times resulted in the sale of the product for export at a price higher than the comparable price charged for the like product to domestic buyers and if the system is so operated, either because of the effective limitation of production or otherwise, as not to unduly stimulate exports or otherwise seriously prejudice the interest of other members.[6]

4. (*a*) In any case of subsidization of a primary commodity,

[6] The Preparatory Committee reported that "the new paragraph 3 would render it possible for interested Members, in consultation with the Organization, to operate a domestic stabilization scheme for a primary product if the stabilized domestic price is at times below the export price and if, through effective production controls or otherwise, the scheme operated so as not to prejudice the interest of Members. Some delegations thought that this was implicit in paragraph 2 and that the explicit exemption in paragraph 3 might render it more difficult to apply paragraph 2 so as to cover other legitimate exceptions." Hence the Preparatory Committee indicated in its report that suggestions might be forthcoming to cover explicitly other exceptional cases.

whether falling under paragraph 1 or paragraph 2, if a Member considers that its interest is seriously prejudiced by the subsidy or if the Member granting the subsidy considers itself unable to comply with the provisions of paragraph 2 within the time limit laid down therein, the difficulty may be deemed 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 subparagraph (*a*) have not succeeded, 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 concerned, the requirements of paragraphs 1 and 2 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 determined in accordance with procedures approved by the Organization.

(*c*) Notwithstanding the provisions of paragraph 2 and subparagraph 4 (*b*), no Member shall grant any subsidy on the exportation of any primary 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 Member 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 regarding the need for an adjustment of the base period selected or for the re-appraisal of the special factors involved.

5. Any determination required by or appropriate to the operation of this article shall be made under procedures established by the Organization in accordance with paragraph 6 of article 66.

SECTION E. State Trading

Article 31. Nondiscriminatory Administration of State-Trading Enterprises

1. If any Member establishes or maintains a state enterprise, wherever located, which imports, exports, purchases, sells, or distributes any product, or if any Member grants exclusive or special privileges, formally or in effect, to any enterprise to import, export,

purchase, sell, (distribute, or produce)[7] any product, (and exercises effective control over the trading operations of such enterprise) the commerce of the other Members shall be accorded treatment no less favorable 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 enterprises 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, and also differential customs treatment. The Member maintaining such state enterprise or granting exclusive or special privileges to an enterprise shall make available such information as may be appropriate in connection with the consultation provided for in article 35.

2. The foregoing provisions of this article relate to purchases by state enterprises for re-sale. With respect to purchases by state enterprises for governmental use and not for re-sale, Members agree to accord to the commerce of other Members fair and equitable treatment having full regard to all relevant circumstances.

3. For the purposes of this article, a state enterprise shall be understood to be any enterprise over whose operations the government of a Member exercises effective control.

Article 32. Expansion of Trade by State Monopolies of Individual Products

1. If any Member (other than a Member subject to the provisions of Article 33)[8] establishes, maintains or authorizes, formally or in effect, a complete or substantially complete monopoly of the importation or exportation of any product, such Member shall, upon the request of any other Member or Members having an interest in trade with that Member in the product concerned, enter into negotiations with such Member or Members, in the manner provided for in respect of tariffs under article 24, with regard to:

(*a*) in the case of an import monopoly, the maximum margin by

[7] The words "distribute, or produce" are placed in parentheses for the reason that certain delegations considered that it should be possible for the government of a Member country to confer exclusive or special privileges upon certain types of enterprise without at the same time exercising effective control over the trading operations of such enterprise. The clause "and exercises effective control over the trading operations of such enterprise" is also included in parentheses so as to make the point of view of those delegations clear. Other delegations, however, considered that in such circumstances it would be proper that the government conferring the exclusive or special privileges should assume the responsibility of exercising effective control over operations affecting the external trade of such enterprise.

[8] The clause in parentheses, referring to art. 33, was provisionally removed since the Preparatory Committee postponed consideration of art. 33.

which the price for an imported product charged by the monopoly in the home market may exceed the landed cost, before payment of any duty, of such product purchased by the monopoly from suppliers in the territories of Members; or

(*b*) in the case of an export monopoly, the maximum margin by which the price for a product charged by the monopoly to purchasers in the territories of such Members may exceed the price for such product charged by the monopoly in the home market after due allowance in either case for internal taxes, transportation, distribution and other expenses incident to purchase, sale or further processing, and a reasonable margin of profit. For the purpose of applying these margins regard may be had, in respect of imports, to average landed costs and selling prices of the monopoly and, in respect of exports, to average prices charged by the monopoly for exports and sales in the home market respectively, over recent periods.

2. Members newly establishing any such monopoly in respect of any product shall not create a margin as defined above greater than that represented by the maximum rate of import or export duty which may have been negotiated in regard to that product pursuant to Article 24. With regard to any monopolized product in respect of which a maximum margin has been established pursuant to this article, the monopoly shall as far as practicable and subject to the other provisions of this Charter

(i) import from Members and offer for sale at prices charged within such maximum margins 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 of the product to consumers which may be in force at that time, and

(ii) in the case of an export monopoly, offer for sale to purchasers in the territories of Members at prices charged within such maximum margins quantities of the product to the fullest extent that they can be made available for exportation.

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

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

[Any Member establishing or maintaining a complete or substantially complete monopoly of its import trade shall promote the expansion of its foreign trade with the other Members in consonance with the purposes of this Charter. To this end such Member shall negotiate with the other Members an arrangement under which, in conjunction with the granting of tariff concessions by such other Members, and in consideration of the other benefits of this Chapter, it

shall undertake to import in the aggregate over a period products of the other Members valued at not less than an amount to be agreed upon. This purchase arrangement shall be subject to periodic adjustment.]

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 similar products (or, in the case of a product which is the subject of a concession with respect to the preference, to producers in a territory which receives or received such preference), the Member shall be free to withdraw the concession, or suspend the obligation, in respect of such product, in whole or in part, or to 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, it shall give notice in writing to the Organization as far in advance as may be practicable and shall afford the Organization, and the other 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:

Provided: That consultation shall be effected immediately following upon the taking of such action. 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 other affected Members shall then be free, not later than 60 days after such action is taken, to suspend, upon the expiration of 60 days from the date 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 oppose. In serious cases the Organization may authorize an affected Member to suspend concessions or obligations in addition to those which may be substantially equivalent to the action originally taken.

Article 35. Consultation—Nullification or Impairment

1. Each Member will accord sympathetic consideration to, and will 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, quantitative and exchange regulations, 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.

2. If any Member should consider that any other Member has adopted any measure, whether or not it conflicts with the terms of this Charter, or that any situation has arisen, which has the effect of nullifying or impairing any object of this Charter, the 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 other appropriate intergovernmental organization, 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 60 days after such action is taken, to withdraw from the Organization upon the expiration of 60 days from the date on which written notice by the Organization of such withdrawal is received.

SECTION G. Relations With Non-Members

Article 36. Contractual Relations With Non-Members—Treatment of Trade of Non-Members

[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 under 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 24. 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.]

SECTION H. General Exceptions

Article 37. General Exceptions to Chapter V

[Nothing in Chapter V of this Charter shall be construed to prevent the adoption or enforcement by any Member of measures

[(*a*) necessary to protect public morals;

[(*b*) necessary to protect human, animal or plant life or health;

[(*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 Member;

[(*f*) relating to the importation or exportation of gold or silver;

[(*g*) necessary to induce 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 prison-made goods;

[(*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; or

[(*l*) imposed in accordance with a determination or recommendation of the Organization formulated under paragraphs 2, 6 or 7 of Article 66.]

SECTION I. Territorial Application

Article 38. Territorial Application of Chapter V—Customs Unions—Frontier Traffic

1. The provisions of Chapter V shall apply to the customs territories of the Member countries. If there are two or more customs territories under the jurisdiction of any Member, each such customs

territory shall be considered as a separate Member country 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 country to adjacent countries in order to facilitate frontier traffic; or

(*b*) the formation of a union for customs purposes of any customs territory of any Member country and any other customs territory:

Provided, that the duties and other regulations of commerce imposed by any such union in respect of trade with other Member countries 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 any union described in subparagraph 2 (*b*) shall consult with the Organization and shall make available to the Organization 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 be subject to approval by the Organization pursuant to paragraph 2 of Article 66.

5. For the purpose of this Article a customs territory shall be understood to mean any area within which separate tariffs or other regulations of commerce are maintained with respect to a substantial part of the trade of such area. A union of customs territories for customs purposes 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 Toward Restrictive Business Practices

1. Members agree to take appropriate measures, individually and through the Organization, to prevent, in international trade, business practices 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 on any of the purposes of the Organization as set forth in article 1.

2. Without limiting the generality of paragraph 1, Members agree that the practices listed in paragraph 3 below, when they are engaged in or are made effective by

(*a*) an international combination, agreement, or other arrangement among commercial enterprises, including such an arrangement among private commercial enterprises, among public commercial enterprises (i. e. trading agencies of government or enterprises in which there is effective government control), or between private and public commercial enterprises;

(*b*) one or more private commercial enterprises

and when such commercial enterprises, individually or collectively, possess effective control of international trade, among a number of countries or generally in one or more products, shall be subject to investigation, in accordance with the procedure provided by the subsequent articles of this chapter, if the Organization considers them to have or to be about to have such harmful effects as are described in paragraph 1.

3. The practices referred to in paragraph 2 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 markets or field of business activity, allocating customers, or fixing sales or purchase quotas;

(*c*) boycotting or discriminating against particular enterprises;

(*d*) limiting production or fixing production quotas;

(*e*) suppressing 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, 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

Members agree that the Organization shall:

1. Arrange, if it considers such action to be justified, for particular Members to take part in a conference requested by any Member who considers that any specific practices exist which have or are about to have the effect described in paragraph 1 of article 39.

2. Consider each written complaint submitted by any Member or, with the permission of a Member, submitted by any affected person, organization, or business entity within that Member's jurisdiction, claiming that specific 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.

3. Request each Member concerned to obtain such information as the Organization may deem necessary, including, for example, statements from commercial enterprises within its jurisdiction, and then determine whether further investigation is justified.

4. If it is considered 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 it may deem necessary and conduct or arrange for hearings at which any Member, and the parties alleged to have engaged in the practice, will have opportunity to be heard.

5. Review all information and come to its findings whether the practices in question have the effect described in paragraph 1 of article 39.

6. Report to all Members the findings reached and the information on which such findings are based; if it finds that the practices have had the effect described in paragraph 1 of article 39, request each Member concerned to take every possible action to prevent the continuance or recurrence of the practices, and at its discretion recommend to the Members concerned remedial measures to be carried out in accordance with their respective laws and procedures.

7. Request all Members concerned to report fully the action they have taken to achieve these results.

8. Prepare and publish, as expeditiously as possible after enquiries have been completed, reports on all complaints dealt with under paragraph 4, showing fully the findings reached, the information on which such findings are based, and the action which Members concerned have been recommended to take; *Provided* that publication of such reports or of any portion thereof may be withheld if it deems this course justified; *Provided* also that the Organization shall not, if a Member so requests, disclose to any person confidential information furnished by that Member which would materially damage the legitimate business interests of a commercial enterprise.

9. Report to all Members, and make public if it is deemed desirable, the action which has been taken by the Members concerned to achieve the results described in paragraph 6.

Article 41. Studies Relating to Restrictive Business Practices

The Organization shall be authorized to:

1. Conduct studies, either on its own initiative or at the request of any Member, or the United Nations, or any specialized agency brought into relationship with the United Nations, relating to

(*a*) types of restrictive business practices in international trade;

(*b*) conventions, laws, and procedures such as those concerning

incorporation, company registration, investments, securities, prices, markets, fair trade practices, trade-marks, copyrights, patents, and the exchange and development of technology, insofar as they are relevant to restrictive business practices, and to request information from Members in connection with such studies;

2. Make recommendations to Members concerning such conventions, laws, and procedures as are relevant to their obligations under this Charter.

3. Arrange conferences, when requested by Members, for purposes of general consultation on any matters relating to restrictive business practices.

Article 42. Obligations of Members

In order to implement the preceding articles in this chapter, each Member undertakes to:

1. Take all possible steps by legislation or otherwise to insure 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; and

2. Take the fullest account of the Organization's findings, requests, and recommendations made under paragraph 6 of article 40, in the light of its obligations under article 39, in considering the initiation of 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 finds to have had the effect described in paragraph 1 of article 39.

3. 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, these measures to be taken in accordance with the particular system of law and economic organization of the Member concerned.

4. 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.

5. Furnish to the Organization, as promptly as possible and to the fullest extent feasible, such information as is requested by the Organization under paragraphs 3, 4, and 7 of article 40 and under paragraph 1 of article 41; provided that confidential information affecting national security or production technique may be withheld.

6. Report, as requested by the Organization under paragraph 7 of article 40, the action taken, independently or in concert with other Members, to implement recommendations made by the Organization under paragraph 6 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.

7. Take part in conferences upon the request of the Organization in accordance with paragraph 3 of article 41.

Article 43. Supplementary Enforcement Arrangements

1. Members may, by mutual accord, cooperate 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 such cooperative actions shall notify the Organization.

Article 44. Continued Effectiveness of Domestic Measures Against Restrictive Business Practices

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

Article 45. Exceptions to Provisions of This Chapter

1. The undertakings expressed in this chapter shall not apply to

(*a*) intergovernmental commodity agreements meeting the requirements of chapter VII.

(*b*) the international agreements excepted in article 59.

2. Notwithstanding the foregoing, the Organization may in its discretion make recommendations to Members and to appropriate intergovernmental organizations concerning any features of the agreements referred to in subparagraph 1 (*b*) which may have the effect described in paragraph 1 of article 39.

CHAPTER VII. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

SECTION A. General Considerations

Article 46. General Statement on 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 a seriously adverse effect on the interests of both producers and consumers. Moreover, they may have wide-spread repercussions which would jeopardize the general policy of economic expansion.

Article 47. Objectives of Intergovernmental Commodity Arrangements

The Members agree that intergovernmental commodity arrangements may be employed to achieve the following objectives:

1. To enable countries to find solutions to the special commodity difficulties referred to in article 46 without resorting to action inconsistent with the purposes of the Charter.

2. 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.

3. 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 overexpanded industries into new and productive occupations.

4. 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.

5. To maintain and develop the natural resources of the world and protect them from unnecessary exhaustion.

6. To provide for expansion in the production of a primary commodity which is in such short supply as seriously to prejudice the interests of consumers.

SECTION B. Intergovernmental Commodity Arrangements in General

Article 48. Special Commodity Studies

1. A Member or Members substantially interested in the production, consumption, or trade of a particular primary commodity shall be entitled, if they consider 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, consumption, or trade of 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 for 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 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 problem 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 intergovernmental 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, consumption, or trade of the commodity shall be entitled to participate in the Conference, and non-members having a similar interest may be invited by the Organization.

3. If the Conference recommends to Members the adoption of any type of intergovernmental commodity arrangement, such arrangement shall conform to the principles stated in article 51.

Article 50. Relations With Specialized Agencies

1. Competent specialized agencies, 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 specialized agency 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 Intergovernmental Commodity Arrangements

Members undertake to adhere to the following principles governing the operation of all types of intergovernmental commodity arrangements:

1. Such arrangements shall be open initially to participation by any Member on terms no less favorable than those accorded to any

other country party thereto and thereafter upon such terms as may be approved by the Organization.

2. Non-members may be invited by the Organization to participate in such arrangements, and the provisions of paragraph 1 shall apply to any non-members so invited.

3. 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.

4. 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.

5. Such arrangements shall provide, where practicable, for measures designed to expand world consumption of the commodity.

6. Members agree that 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 operation of the arrangements, and to the nature and development of measures adopted to correct the underlying situation which gave rise to the arrangement.

SECTION C. Intergovernmental Commodity Agreements Involving the Regulation of Production, Trade, or Prices

Article 52. Circumstances Governing Use of Regulatory Agreements

Members agree that regulatory agreements may be employed only when:

1. 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 among whom are small producers who account for a substantial portion of the total output; or

2. Wide-spread unemployment in connection with a particular 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 marketing forces alone in time to prevent wide-spread and

undue hardship to workers because, in the case of the industry concerned, a substantial reduction of price does not 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

3. The Organization finds that, for a commodity other than a primary commodity, exceptional circumstances justify such action.

Such agreements shall be subject not only to the principles set forth in this chapter but also to 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:

1. 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, consumption, or trade of a particular primary 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.

2. Under such agreements participating countries shall afford equitable treatment as between non-participating Members and participating countries, giving equitable advantages in return for the observance of equitable obligations.

3. Participating countries shall, in matters the subject of such agreements, afford non-participating Member countries treatment no less favorable than that accorded to any non-member country which does not participate in the agreement.

4. Such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at reasonable prices.

5. 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 most effectively and economically.

6. Participating countries shall formulate and adopt a program 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 a governing body hereinafter referred to as a Commodity Council.

2. Each of the countries participating in an agreement shall be entitled to be represented by a member on the Commodity Council. These members alone shall have the right to vote. Their voting power shall be determined in such a way as to conform with the provisions of paragraph 4 of article 51.

3. The Organization shall be entitled to appoint a non-voting member to each Commodity Council, and may invite any competent specialized agency to nominate a non-voting member 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. These rules and regulations shall be subject to the approval of the Organization.

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

Regulatory agreements shall be in effect for not more than five years. Their renewal shall be subject to the principles stated elsewhere in this chapter. Periodically, at intervals no greater than five 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, each commodity agreement shall provide that if its operations have 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 over archives, statistical material, and other possessions 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 ab-

sence 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 subject to the provisions of article 86.

SECTION D. Miscellaneous Provisions

Article 57. Obligations of Members Regarding Existing and Proposed Commodity Arrangements

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

2. Members undertake to transmit to the Organization appropriate information regarding any negotiations, looking to the conclusion of an intergovernmental commodity arrangement, in which they are participating at the time of the coming into force of their obligations under this Charter. Members also agree to conform with decisions made by the Organization regarding their continued participation in any such negotiations; and the Organization may declare that such negotiations conform to the requirements for a Study Group or a Commodity Conference as the case may be.

Article 58. General Undertaking by Members

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

Article 59. Exceptions to Provisions Relating to Intergovernmental Commodity Arrangements

1. The provisions of chapter VII are not designed to cover intergovernmental commodity arrangements which relate solely to the equitable distribution of commodities in short supply or to cover those provisions of intergovernmental 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 agree not to participate in such arrangements if they involve the regulation of production, trade, or prices unless they are authorized or provided for by a multilateral convention subscribed to by a majority of the nations affected, or unless operated under the Organization.

2. None of the foregoing provisions of chapter VII is to be interpreted as applying 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 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, a primary commodity is any agricultural product or mineral which enters world trade in substantial volume in a form customarily called primary. The term "primary commodity" may include a primary commodity on which minor processing has been performed in preparation for export. It may also include a group of primary commodities which are so closely related to one another that they can conveniently be dealt with in a single arrangement. Such a group may, subject to paragraph 3 of article 52, include appropriate non-primary commodities.

2. For the purposes of this chapter, the term "Member" or "non-member" shall, where it is appropriate, be taken to mean a Member or non-member 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. An intergovernmental commodity arrangement is any accord between two or more governments relating to a commodity other than an accord relating to the purchase and sale of a commodity falling under section E of chapter V.

4. A regulatory agreement is an intergovernmental commodity arrangement involving regulation of the production, export, or import of a commodity or regulation of prices.

CHAPTER VIII. ORGANIZATION

SECTION A. Functions and Structure of the Organization

Article 61. Functions of the Organization

It shall be the function of the Organization:

1. To collect, analyze, and publish information relating to international trade, including information relating to commercial policy, business practices, and commodity problems and to industrial and general economic development.

2. To provide technical assistance and advice to Members and to the United Nations and other international organizations, including such assistance and advice as may be appropriate in connection with specific projects of industrialization or other economic development.

3. To consult with and to make recommendations and reports to Members regarding any matter relating to the purposes of the Organization or the operation of this Charter, including the following:

(*a*) Recommendations or determinations relating to the discharge of the responsibilities of the Organization, or of the Members, under chapter V.

(*b*) Recommendations as to measures for implementing the objectives with regard to restrictive business practices set forth in chapter VI.

(*c*) Recommendations regarding the application to commodity arrangements under consideration by Members of the principles governing commodity arrangements set forth in chapter VII and recommendations initiating proposals for new commodity arrangements, or proposing such modifications, including termination of commodity arrangements already concluded, as may be deemed appropriate under the commodity principles and in the general interest.

(*d*) Recommendations as to measures for implementing the objectives of the Organization in encouraging and assisting the industrial and general economic development of Members.

4. To consult with Members regarding disputes growing out of the provisions of this Charter and to provide for the settlement of such disputes.

5. To make recommendations for, and promote the acceptance by Members of, international agreements 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 agreements on the treatment of foreign nationals and enterprises, on the treatment of commercial travelers, on commercial arbitration, and on the avoidance of double taxation.

6. To achieve an economy of effort in the performance of the

functions set out in this article and to cooperate with the United Nations and with other intergovernmental organizations, generally, in the attainment of the economic and social objectives of the United Nations and in the restoration and maintenance of international peace and security.

7. Generally to advise and to make recommendations to Members and other international organizations, and to perform any other function appropriate to the purposes of the Organization.

Article 62. Structure of the Organization

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 on the Conference.

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

Article 64. Voting

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

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.

Article 65. Sessions, Procedure, and Officers

1. The Conference shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall 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 Members of the Organization and to other international organizations regarding any matter pertaining to the purposes of the Organization.

2. The Conference may, by the affirmative votes of two thirds of its Members, determine criteria and set up procedures for waiving,

[1] See footnote to art. 68.

in exceptional circumstances, obligations of Members undertaken pursuant to this Charter.

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

4. The Conference shall approve the budget of the Organization and shall apportion the expenses of the Organization among the Members.

5. The Conference may develop and, by the affirmative votes of two thirds of its Members, recommend for their acceptance, conventions and agreements with respect to any matter within the competence of the Organization. Each Member undertakes that it will, within 18 months after such recommendation by the Conference, make a decision upon it. Each Member shall notify the Director General of the action taken and, in the event of rejection of such recommendation, shall furnish a statement of the reasons therefor.

6. The Conference shall establish procedures for making the determinations provided for in article 30 and in paragraph 3 of article 52 whereby any such determinations shall be made through the Organization by consultation among the Members having an important interest in the trade in the product concerned.

7. The Conference shall establish procedures for making the determinations and recommendations provided for in subparagraph 3 (*d*) of article 26; paragraph 2 of article 34; and article 35.

8. The Conference may, by the affirmative votes of two thirds of its members present and voting, adopt the standards, nomenclature, terms, and forms described in paragraph 7 of article 22.

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

SECTION C. Interim Tariff Committee

Article 67. Interim Tariff Committee

1. There shall be an Interim Tariff Committee which shall act temporarily on behalf of the Organization in the making of recommendations and determinations pursuant to paragraph 3 of 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...[2] Any other Member

[2] This agreement refers to the proposed arrangement for the concerted reduction of tariffs and trade barriers among the countries invited by the United States to enter into negotiations for this purpose. It is contemplated that the agreement would contain schedules of tariff concessions and would incorporate certain of the provisions of chap. V of the Charter (e. g. the provisions relating to most-favored-nation treatment, to national treatment on internal taxes and regulations, to quantitative restrictions, etc.).

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. When the number of Members of the Organization which are members of the Committee shall constitute two thirds of the total number of Members of the Organization, the Committee shall terminate and its functions shall be transferred to the Conference.

3. Each member of the Committee shall have one vote.[3]

4. Decisions of the Committee shall be taken by a majority of the members present and voting.

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

SECTION D. The Executive Board

Article 68. Membership [4]

First Alternative

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, 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 representative.

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[3] See footnote to art. 68.

[4] At the meeting of the Preparatory Committee it was suggested that some formal provision might be made in the Charter whereby differences in importance in international trade of individual Members would be reflected in the measure of control that they would exercise over the affairs of the International Trade Organisation. In this connection the Committee discussed the possibility of providing for (a) weighted voting or (b) permanent seats on the Executive Board for more important trading countries.

With respect to voting (see par. 1 of art. 64, par. 3 of art. 67, and par. 1 of art. 69) the majority of delegations favored in principle the system of one vote for each country, but several who did so expressed willingness to consider alternatives.

In the case of art. 68, above, with respect to membership on the Executive Board, alternative drafts were presented. Many points were raised in the course of discussion, however, which would involve modification, in one way or another, of each of the alternatives, or the formulation of new ones.

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 of this article, one third of the members of the Executive Board shall be elected each year for a term of three years.

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 representative.

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 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.

Fourth Alternative

1. The Executive Board shall consist of 20 Members of the Organization.

2. Subject to the provisions of paragraph 3 of this article 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.

Article 69. Voting

1. Each member of the Executive Board shall have one vote.[5]

2. Decisions of the Executive Board shall be made by a majority of members present and voting.

Article 70. Sessions, Procedures, 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 by the Conference. It shall supervise the 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 as it relates to industrialization and general economic development.

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

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

4. The Executive Board may refer to the commissions such questions as it may deem appropriate.

[5] See footnote to art. 68.

SECTION E. The 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. These commissions shall be responsible to the Executive Board.

Article 73. Composition and Procedure

1. The commissions shall be composed of persons invited by the Executive Board and qualified by training or experience to carry out the functions of the commissions in accordance with the purposes of the Organization.

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 adopt its own rules of procedure, subject to approval by the Executive Board.

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

5. As set forth more fully in paragraph 2 of article 81, the Organization may make arrangements for representatives of other intergovernmental organizations having a special interest in the activities of any of the commissions to participate in the work of such commissions, pursuant to agreements with these organizations.

Article 74. General Functions

The commissions shall have the functions set forth in articles 75, 76, and 77, and shall perform such other 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.

Article 75. Functions of the Commission on Commercial Policy

[The Commission on Commercial Policy shall have the following functions:

[1. To investigate and to advise the Executive Board regarding the operation of treaties, agreements, practices and policies affecting international trade.

[2. To investigate and to advise the Executive Board regarding the economic aspects of specific proposals involving the exercise by the

Organization of the functions described in sub-paragraph 3 (*a*) of Article 61 and paragraph 2 of Article 66.

[3. To investigate and to advise the Executive Board regarding the economic aspects of proposed customs unions.

[4. To develop and to recommend to the Executive Board programs designed to further the objectives of the Organization in the general field of commercial policy, including cooperative projects of a technical nature in the field of commercial policy.]

Article 76. Functions of the Commission on Business Practices

The Commission on Business Practices shall have the following functions:

1. In accordance with article 40 to:

(*a*) Arrange, at the request of a Member, consultative conferences with other Members and make appropriate reports for communication at the discretion of the Executive Board to all Members;

(*b*) Receive and consider written complaints concerning restrictive business practices in international trade;

(*c*) Prescribe minimum information required in such complaints;

(*d*) Notify Members of complaints received and request information relative to such complaints;

(*e*) Request further data from Members and conduct or arrange for hearings;

(*f*) Report to the Executive Board its findings and its recommendations of remedial measures;

(*g*) Request reports from Members on the action taken as a result of recommendations made to them by the Executive Board; and

(*h*) Prepare reports for publication by the Executive Board.

2. In accordance with article 41, and subject to the approval of the Executive Board, to conduct studies relating to business practices which restrain competition, restrict access to markets, or foster monopolistic control in international trade, or relating to international conventions or national laws and procedures designed to carry out the objectives of article 40 or to those which may effect such objectives, and to make recommendations when appropriate to the Executive Board for action by Members.

3. To advise the Executive Board as to information and other materials to be obtained from Members or other sources in the discharge of the duties and responsibilities of the Commission.

4. To perform such other functions pursuant to the objectives of chapter VI as may be assigned to it from time to time by the Executive Board.

Article 77. Functions of the Commodity Commission [6]

[The Commodity Commission shall have the following functions:

[1. To investigate commodity problems and arrangements proposed for solving them.

[2. To recommend to the Executive Board appropriate courses of action relating to commodity problems, including recommendations for the establishment of Study Groups for particular commodities. Such Study Groups shall be established, pursuant to paragraphs 1 and 2 of Article 48, by the Executive Board, upon the recommendation of the Commodity Commission, for the purpose of investigating problems with respect to particular commodities. The Study Groups shall include, in addition to representatives of interested countries, one or more members of the Commodity Commission or other persons designated by the Commission.

[3. To advise the Executive Board whether a particular commodity is in burdensome surplus, subject to such procedures as may be established under paragraph 6 of Article 66.

[4. To recommend to the Executive Board whether an intergovernmental conference should be convened pursuant to Article 49.

[5. To designate members of the Commission, or others, to participate in an advisory capacity in the formulation of intergovernmental commodity agreements.

[6. To advise the Executive Board whether or not intergovernmental commodity agreements under consideration by Members conform to the principles set forth in Chapter VII and to make recommendations to the Executive Board thereon.

[7. To approve the rules of procedure governing the activities of each Commodity Council.

[8. To designate the Chairman and provide the Secretary for any Commodity Council established to administer an intergovernmental commodity agreement.

[9. To receive reports from Commodity Councils; to maintain continuous review of the operation of intergovernmental commodity agreements in the light of the terms of the agreements, the commodity principles in Chapter VII of this Charter, and the general welfare; to investigate such matters in this connection as it may deem appropriate; and to make recommendations to the Executive Board with regard thereto.]

SECTION F. The Secretariat

Article 78. Composition

1. The Secretariat shall consist of a Director General and such staff as may be required.

[6] The Preparatory Committee did not draft an article on this subject, but annexure B, which is taken from the Preparatory Committee's report, shows what the Committee envisaged the functions of the Commodity Commission would be.

2. The Director General shall have authority to appoint such Deputy Directors General as he deems necessary. Such appointments shall be made 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. His powers, duties, terms, and conditions of office shall be in accordance with regulations approved by the Conference. He shall be the chief administrative officer of the Organization, subject to the general supervision of the Executive Board.

2. The Director General or a deputy designated by him shall participate, without the right to vote, in all meetings of the Conference, of the Executive Board, of the Commissions, and of committees of the Organization. The Director General shall have authority to initiate proposals for the consideration of any organ of the Organization. He shall make an annual report to the Conference and to the Executive Board on the work of the Organization and shall prepare the annual budget 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 staff 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 specialized agencies which may be brought into relationship with he United Nations, as provided in article 57 of the Charter of the United Nations.

SECTION G. Miscellaneous Provisions

Article 81. Relations With Other Organizations

1. The Organization shall be brought into relationship with the United Nations, as soon 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 an 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. Notwithstanding the provisions of article 85, any changes in this Charter required under the agreement which do not involve new obligations by Members shall be effective on approval of the agreement by the Conference.

2. The Organization shall cooperate with other intergovernmental organizations whose interests and activities are related to its purposes. 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. Formal arrangements for cooperation with such organizations may be entered into by the Executive Board.

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 this Organization and the competent authorities of any other international organization whose purposes and functions lie within the competence of this 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 organization as may be provided by any convention or agreement appropriate to the purpose. In accordance with their respective constitutional procedures the Members shall 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 members of the commissions provided for in article 72, of the Director General, of the Deputy Directors 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. Each Member of the Organization undertakes to respect the international character of the responsibilities of these persons, and not to seek to influence them in the discharge of their duties.

Article 83. Legal Capacity of the Organization

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 84. Privileges and Immunities of the Organization

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the Organization and its officials shall similarly enjoy such privileges and immunities as are 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 and may propose conventions to the Members for this purpose.

Article 85. Amendments to the Charter

1. Amendments to this Charter shall become effective upon receiving the approval of the Conference by the affirmative votes of two thirds of its Members.

2. Notwithstanding the provisions of paragraph 1, those amendments which involve new obligations on the part of the Members of the Organization shall take effect upon acceptance on the part of two thirds of the Members for each Member accepting the amendments and thereafter for each remaining Member on acceptance by it. In such cases, the Conference may determine that any Member which has not accepted the amendment, within a period specified by the Conference, shall thereupon be obliged to withdraw from the Organization. In the absence of a determination that a Member shall be obliged to withdraw, a Member shall, notwithstanding the provisions of paragraph 1 of article 89, have the right to withdraw on due notice as provided in paragraph 2 of that article.

3. The Conference shall, by the affirmative votes of two thirds of its Members, adopt rules of procedure for carrying out the provisions of this article.

Article 86. Interpretation and Settlement of Disputes

1. The Chinese, English, French, and Spanish texts of this Charter shall be regarded as equally authoritative.

2. Any question or difference concerning the interpretation of this Charter or arising out of its operation shall be referred to the Executive Board for a ruling thereon. The Executive Board may decide either to give a ruling on the matter itself or to refer it, with the consent of the parties, to arbitration upon such terms as may be agreed by the parties. Any ruling of the Executive Board shall, upon the request of any Member directly affected or, if the ruling is of general application, upon the request of any Member, be referred to the Conference.

3. Any justiciable issue arising out of a ruling of the Conference with respect to the interpretation of subparagraphs (*c*), (*d*), (*e*), or (*k*) of article 37 or of paragraph 2 of article 59 may be submitted by any party to the dispute to the International Court of Justice, and any justiciable issue arising out of any other ruling of the Conference may, in accordance with such procedures as the Conference shall establish, be submitted by any party to the dispute to the International Court of Justice. The Members accept the jurisdiction of the Court in respect of any dispute submitted to the Court under this article.

4. The Organization may, in accordance with paragraph 2 of article 96 of the Charter of the United Nations, request from the International Court of Justice advisory opinions on legal questions arising within the scope of its activities.

Article 87. Payment of Contribution

Each Member undertakes to contribute promptly to the Organization its share of the Organization's expenses 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 Conference 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 Members of the United Nations of the date of deposit of each instrument of acceptance and of the date on which this Charter enters into force under paragraph 3.

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 acceptance pursuant to paragraph 2 shall reach 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 December 31, 194--, any of the governments which have made effective the General Agreement on Tariffs and Trade dated ----------, 194--,[7] 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 the oversea 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 the Charter on behalf of any such self-governing territory willing to undertake the obligations of the Charter, and upon such notification the provisions of the Charter shall become applicable to that territory.

Article 89. Withdrawal and Termination

1. Any Member of the Organization may withdraw from the Organization, either on its own behalf or on behalf of an oversea territory which is self-governing in the respect mentioned in paragraph 4 of article 88, at any time after the expiration of three years from the date of the entry into force of this Charter under the provisions of article 88, by written notification addressed to the Secretary-General of the United Nations in accordance with the provisions of paragraph 2. The Secretary-General will immediately inform all other Members of the Organization.

2. The withdrawal shall take effect six months from the date of the receipt of the notification by the Secretary-General: *Provided*, that the notification may be withdrawn at any time during that period.

3. This Charter may be terminated at any time by agreement of three fourths of the Members of the Organization.

[7] The footnote to par. 2 of art. 87 describes this agreement.

ANNEXURE A

List of Territories Referred to in Subparagraph 2 (*a*) (ii) of Article 14

Countries of the British Commonwealth of Nations

The United Kingdom of Great Britain and Northern Ireland and its dependent territories,
Canada,
The Commonwealth of Australia and its dependent territories,
New Zealand and its dependent territories,
The Union of South Africa and South West Africa,
Ireland,
Newfoundland,
Southern Rhodesia,
Burma,
Ceylon.

ANNEXURE B

Assignment of Functions With Respect to Intergovernmental Commodity Arrangements

Reference to Chapter VI as Redrafted	Function	Suggested Authority Within Organization
Art. 48, par. 2	Invitation to certain Members and non-members to appoint representatives to a Study Group.	Executive Board on the recommendation of the Commodity Commission; the latter will carry out actual administrative arrangements for the Study Group.
Art. 48, par. 3	The Study Group makes recommendations to the Organization as to how best to deal with difficulties.	Recommendations received by Commodity Commission and transmitted to Members of ITO through Executive Board.
Art. 49, par. 1	Convening of Commodity Conference.	Executive Board.
Art. 49, par. 2	Invitation to non-members to participate in Commodity Conference.	ditto.
Art. 50, par. 1	Receipt of studies, or of requests for studies, from specialized agencies.	Commodity Commission.
Art. 50, par. 2	Requests to specialized agencies to take part in the work of the Commodity Conference.	Executive Board on the recommendation of the Commodity Commission.
Art. 51, par. 1	Determination of whether terms are "no less favorable." Approval of terms of subsequent participation.	ditto.
Art. 51, par. 2	Invitation to non-members to participate in arrangements.	ditto.
Art. 52,[1] par. 3	Decision whether exceptional circumstances exist which would justify a regulatory agreement for a non-primary commodity.	Executive Board advised by the Commodity Commission, subject to procedures established by the Conference.

[1] With reference to paragraphs 1 and 2 of this article, it would appear that the determination whether the circumstances in fact exist in which a regulatory agreement may be used will be made "by consultation among the Members having an important interest in the trade in the product concerned." See *Suggested Charter*, art. 55, par. 6, read together with art. 66, par. 3, and art. 45, par. 2 (b).

ANNEXURE B—Continued

Reference to Chapter VI as Redrafted	Function	Suggested Authority Within Organization
Art. 54, par. 3	Appointment of non-voting Members to Commodity Council.	Executive Board on the recommendation of the Commodity Commission.
Art. 54, par. 4	Nomination of non-voting chairman at request of Commodity Council.	Commodity Commission (Ref. art. 66, par. 8, of U. S. *Suggested Charter*).
Art. 54, par. 5	Consultation *re* Secretariat.	ditto.
Art. 54, par. 6	Approval of rules of procedure.	Commodity Commission (Ref. art. 66, par. 7, of U. S. *Suggested Charter*).
Art. 54, par. 7	Receipt of reports from Commodity Council, and requests to latter for special reports.	Commodity Commission (Ref. art. 66, par. 9, of U. S. *Suggested Charter*).
Art. 55	Preparation and publication of a review of operation of an agreement.	Preparation by the Commodity Commission; publication by authority of the Executive Board.
	Disposal of archives, etc. on termination of an agreement.	Documents in charge of Director General.
Art. 57, par. 1	Receipt of information regarding existing commodity arrangements; review and decision regarding continued participation.	Executive Board (subject to approval of the Conference) upon recommendation of the Commodity Commission.
Art. 57, par. 2	Similar function in connection with negotiations.	ditto.

NOTE: General matters not specifically referred to in the Draft Charter which involve the Organization will normally fall within the province of the Commodity Commission in its advisory capacity to the Executive Board.

CROSS-REFERENCE INDEX

(For cross-reference use figures in [ ])

Between Article Names and Numbers of Foregoing Redraft of Charter and Those of Original United States *Suggested Charter*

NOTE: An effort has been made to indicate which articles of the United States *Suggested Charter* cover the general subject matter dealt with in the articles of the Redraft. In a majority of cases the subject matter of articles in the *Suggested Charter* is the same, or substantially the same, as that of articles in the Redraft, even though its treatment might be somewhat different; in such cases cross-references are precise. In some cases the cross-references are only approximate.

Redraft	Page	Suggested Charter	Page
Establishment Provisions	1	Establishment Provisions	1
CHAP. I. PURPOSES		CHAP. I. PURPOSES	
Art. 1. General Purposes of the Organization	1	Art. 1. General Purposes of the Organization	1
CHAP. II. MEMBERSHIP		CHAP. II. MEMBERSHIP	
Art. 2. Membership	1	Art. 2. Membership	1
CHAP. III. EMPLOYMENT		CHAP. III. EMPLOYMENT PROVISIONS	
Art. 3. Relation of Employment to the Purposes of the Organization	2	Art. 3. Relation of Employment to Purposes of Organization	2
Art. 4. The Maintenance of Domestic Employment	2		
Art. 5. The Development of Domestic Resources and Productivity	3	Art. 4. General Undertaking to Promote Full Employment [1]	2
Art. 6. Fair Labor Standards	3		
Art. 7. The Removal of Maladjustments in the Balance of Payments	3		
Art. 8. Safeguards for Countries Subject to External Deflationary Pressure	3		
		Art. 5. Avoidance of Certain Employment Measures [2]	2

[1] Arts. 4 and 5 of Redraft.
[2] Arts. 3 and 4 of Redraft.

CROSS-REFERENCE INDEX—Continued

Redraft	Page	Suggested Charter	Page
CHAP. III. EMPLOYMENT—Continued		CHAP. III. EMPLOYMENT PROVISIONS—Continued	
Art. 9. Consultation and Exchange of Information on Matters Relating to Employment[3]	3	Art. 6. Consultation and Exchange of Information on Matters Relating to Employment	2
		Art. 7. Assignment of Functions to Economic and Social Council	3
CHAP. IV. ECONOMIC DEVELOPMENT			
Art. 10. Importance of Economic Development	4		
Art. 11. Plans for Economic Development	4		
Art. 12. Means of Economic Development	4		
Art. 13. Governmental Assistance to Economic Development	5		
CHAP. V. GENERAL COMMERCIAL POLICY		CHAP. IV. GENERAL COMMERCIAL POLICY	
SEC. A. General Commercial Provisions		SEC. A. General Commercial Provisions	
Art. 14. General Most-Favored-Nation Treatment	6	Art. 8. General Most-Favored-Nation Treatment	3
Art. 15. National Treatment on Internal Taxation and Regulation	7	Art. 9. National Treatment on Internal Taxation and Regulation	4
Art. 16. Freedom of Transit	7	Art. 10. Freedom of Transit	4
Art. 17. Antidumping and Countervailing Duties	8	Art. 11. Antidumping and Countervailing Duties	5
Art. 18. Tariff Valuation	9	Art. 12. Tariff Valuation	6
Art. 19. Customs Formalities	9	Art. 13. Customs Formalities	6
Art. 20. Marks of Origin	10	Art. 14. Marks of Origin	7
Art. 21. Publication and Administration of Trade Regulations—Advance Notice of Restrictive Regulations	11	Art. 15. Publication and Administration of Trade Regulations—Advance Notice of Restrictive Regulations	8

[3] Arts. 6 and 7 of *Suggested Charter*.

CROSS-REFERENCE INDEX—Continued

Redraft	Page	Suggested Charter	Page
CHAP. V. GENERAL COMMERCIAL POLICY—Continued		CHAP. IV. GENERAL COMMERCIAL POLICY—Continued	
SEC. A. General Commercial Provisions—Continued		SEC. A. General Commercial Provisions—Continued	
Art. 22. Information, Statistics, and Trade Terminology	12	Art. 16. Information, Statistics and Trade Terminology	9
Art. 23. Boycotts		Art. 17. Boycotts	11
SEC. B. Tariffs and Tariff Preferences	14	SEC. B. Tariffs and Tariff Preferences	
Art. 24. Reduction of Tariffs and Elimination of Preferences	14	Art. 18. Reduction of Tariffs and Elimination of Preferences	11
SEC. C. Quantitative Restrictions and Exchange Control	15	SEC. C. Quantitative Restrictions	
Art. 25. General Elimination of Quantitative Restrictions	17	Art. 19. General Elimination of Quantitative Restrictions	12
Art. 26. Restrictions To Safeguard the Balance of Payments	20	Art. 20. Restrictions to Restore Equilibrium in the Balance of Payments	14
Art. 27. Nondiscriminatory Administration of Quantitative Restrictions	22	Art. 21. Nondiscriminatory Administration of Quantitative Restrictions	16
Art. 28. Exceptions from the Rule of Nondiscrimination	23	Art. 22. Exceptions From Rule of Nondiscrimination	17
		SEC. D. Exchange Control	
		Art. 23. Elimination of Exchange Restrictions in Relation to Current Commodity Transactions	17
Art. 29. Exchange Arrangements[4]	24		
		Art. 24. Nondiscriminatory Administration of Exchange Restrictions	18
SEC. D. Subsidies		SEC. E. Subsidies	
Art. 30. General Undertaking Regarding Subsidies—Elimination of Export Subsidies—Exceptions		Art. 25. General Undertaking Regarding Subsidies—Elimination of Export Subsidies—Exceptions	18

[4] Arts. 23 and 24 of *Suggested Charter*.

CROSS-REFERENCE INDEX—Continued

Redraft	Page	Suggested Charter	Page
CHAP. V. GENERAL COMMERCIAL POLICY—Continued		CHAP. IV GENERAL COMMERCIAL POLICY—Continued	
SEC. E. State Trading		SEC. F. State Trading	
Art. 31. Nondiscriminatory Administration of State-Trading Enterprises	26	Art. 26. Nondiscriminatory Administration of State-Trading Enterprises	20
Art. 32. Expansion of Trade by State Monopolies of Individual Products	27	Art. 27. Expansion of Trade by State Monopolies of Individual Products	21
Art. 33. Expansion of Trade by Complete State Monopolies of Import Trade	28	Art. 28. Expansion of Trade by Complete State Monopolies of Import Trade	22
SEC. F. Emergency Provisions—Consultation		SEC. G. Emergency Provisions—Consultation—Nullification or Impairment	
Art. 34. Emergency Action on Imports of Particular Products	29	Art. 29. Emergency Action on Imports of Particular Products	22
Art. 35. Consultation—Nullification or Impairment	29	Art. 30. Consultation—Nullification or Impairment	23
SEC. G. Relations With Non-Members		SEC. H. Relations With Non-Members	
Art. 36. Contractual Relations With Non-Members—Treatment of Trade of Non-Members	30	Art. 31. Contractual Relations With Non-Members—Treatment of Trade of Non-Members	23
SEC. H. General Exceptions		SEC. I. General Exceptions	
Art. 37. General Exceptions to Chap. V	31	Art. 32. General Exceptions to Chap. IV	24
SEC. I. Territorial Application		SEC. J. Territorial Application	
Art. 38. Territorial Application of Chap. V—Customs Unions—Frontier Traffic	31	Art. 33. Territorial Application of Chap. IV—Customs Unions—Frontier Traffic	25
CHAP. VI. RESTRICTIVE BUSINESS PRACTICES		CHAP. V. RESTRICTIVE BUSINESS PRACTICES	
Art. 39. Policy Toward Restrictive Business Practices	32	Art. 34. Policy Toward Restrictive Business Practices	25

CROSS-REFERENCE INDEX—Continued

Redraft	Page	Suggested Charter	Page
CHAP. VI. RESTRICTIVE BUSINESS PRACTICES—Continued		CHAP. V. RESTRICTIVE BUSINESS PRACTICES—Continued	
Art. 40. Procedure With Respect to Complaints and Conferences	33	Art. 35. Procedure With Respect to Complaints	26
Art. 41. Studies Relating to Restrictive Business Practices	34	Art. 36. Studies and Conferences Relating to Restrictive Business Practices	27
Art. 42. Obligations of Members	35	Art. 37. Obligations of Members	28
Art. 43. Supplementary Enforcement Arrangements	36	Art. 38. Supplementary Enforcement Arrangements	28
Art. 44. Continued Effectiveness of Domestic Measures Against Restrictive Business Practices	36	Art. 39. Continued Effectiveness of Domestic Measures Against Restrictive Business Practices	29
Art. 45. Exceptions to Provisions of This Chapter	36	Art. 40. Exceptions to Provisions of Chap. V	29
CHAP. VII. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS		CHAP. VI. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS	
SEC. A. General Considerations			
Art. 46. General Statement on Difficulties Relating to Primary Commodities	36	Art. 41. General Statement Regarding Intergovernmental Commodity Arrangements	29
Art. 47. Objectives of Intergovernmental Commodity Arrangements	37	Art. 44. Objectives of Intergovernmental Commodity Agreements	30
SEC. B. Intergovernmental Commodity Arrangements in General			
Art. 48. Special Commodity Studies	37	Art. 42. Special Commodity Studies	29
Art. 49. Commodity Conferences	38	Art. 43. Commodity Conferences	30
Art. 50. Relations With Specialized Agencies	38		
Art. 51. General Principles of Intergovernmental Commodity Arrangements	38		

CROSS-REFERENCE INDEX—Continued

Redraft	Page	Suggested Charter	Page
CHAP. VII. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS—Continued		CHAP. VI. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS—Continued	
SEC. C. Intergovernmental Commodity Agreements Involving the Regulation of Production, Trade, or Prices		Art. 45. Principles Governing the Institution of Intergovernmental Commodity Agreements [5]	31
Art. 52. Circumstances Governing Use of Regulatory Agreements	52	Art. 46. Principles and Requirements of Intergovernmental Commodity Agreements [5]	32
Art. 53. Additional Principles Governing Regulatory Agreements	40		
Art. 54. Administration of Regulatory Agreements	41	Art. 47. Commodity Councils	33
Art. 55. Provision for Initial Terms, Review, and Renewal of Regulatory Agreements [6]	41		
Art. 56. Settlement of Disputes	41		
SEC. D. Miscellaneous Provisions			
Art. 57. Obligations of Members Regarding Existing and Proposed Commodity Arrangements	42	Art. 48. Additional Obligations of Members in Respect of Intergovernmental Commodity Agreements	34
Art. 58. General Undertaking by Members	42		
Art. 59. Exceptions to Provisions Relating to Intergovernmental Commodity Arrangements	42	Art. 49. Exceptions to Provisions Relating to Intergovernmental Commodity Agreements	34
Art. 60. Definitions	43		
CHAP. VIII. ORGANIZATION		CHAP. VII. ORGANIZATION	
SEC. A. Functions and Structure of the Organization		SEC. A. Functions	
Art. 61. Functions of the Organization	44	Art. 50. Functions of the Organization	35
		SEC. B. Structure	
Art. 62. Structure of the Organization	45	Art. 51. Structure of the Organization	36

[5] Arts. 51, 52, and 53 of Redraft.
[6] Par. 9 of art. 46 of *Suggested Charter*.

CROSS-REFERENCE INDEX—Continued

Redraft	Page	Suggested Charter	Page
CHAP. VIII. ORGANIZATION—Continued		CHAP. VII. ORGANIZATION—Continued	
SEC. B. The Conference		SEC. C. The Conference	
Art. 63. Membership	45	Art. 52. Conference—Membership	36
Art. 64. Voting	45	Art. 53. Conference—Voting	36
Art. 65. Sessions, Procedure, and Officers	45	Art. 54. Conference—Sessions, Procedure and Officers	36
Art. 66. Powers and Duties	45	Art. 55. Conference—Powers and Duties	36
SEC. C. Interim Tariff Committee			
Art. 67. Interim Tariff Committee	46	Art. 56. Interim Tariff Committee	37
SEC. D. The Executive Board		SEC. D. The Executive Board	
Art. 68. Membership	47	Art. 57. Executive Board—Membership	38
Art. 69. Voting	49	Art. 58. Executive Board—Voting	38
Art. 70. Sessions, Procedures, and Officers	49	Art. 59. Executive Board—Sessions, Procedure and Officers	38
Art. 71. Powers and Duties	49	Art. 60. Executive Board—Powers and Duties	39
SEC. E. The Commissions		SEC. E. The Commissions	
Art. 72. Establishment	50	Art. 61. Establishment of Commissions	39
Art. 73. Composition and Procedure	50	Art. 62. Composition and Procedure of Commissions	39
Art. 74. General Functions	50	Art. 63. General Functions of Commissions	40
Art. 75. Functions of the Commission on Commercial Policy	50	Art. 64. Functions of Commission on Commercial Policy	40
Art. 76. Functions of the Commission on Business Practices	51	Art. 65. Functions of Commission on Business Practices	40
Art. 77. Functions of the Commodity Commission	52	Art. 66. Functions of Commodity Commission	41

CROSS-REFERENCE INDEX—Continued

Redraft	Page	Suggested Charter	Page
CHAP. VIII. ORGANIZATION—Continued		CHAP. VII. ORGANIZATION—Continued	
SEC. F. The Secretariat		SEC. F. The Secretariat	
Art. 78. Composition	52	Art. 67. Composition of Secretariat	42
Art. 79. The Director General	53	Art. 68. Director General	42
		Art. 69. Deputy Directors General	42
Art. 80. Employment of Staff	53	Art. 70. Secretariat Staff	43
SEC. G. Miscellaneous Provisions		SEC. G. Miscellaneous Provisions	
Art. 81. Relations With Other Organizations	53	Art. 71. Relations With Other Organizations	43
Art. 82. International Responsibilities of Personnel of the Organization	54	Art. 72. International Responsibilities of Personnel of Organization	44
Art. 83. Legal Capacity of the Organization	55	Art. 73. Legal Capacity of Organization	44
Art. 84. Privileges and Immunities of the Organization	55	Art. 74. Privileges and Immunities of Organization	45
Art. 85. Amendments to the Charter	55	Art. 75. Amendments to Charter	45
Art. 86 Interpretation and Settlement of Disputes	55	Art. 76. Interpretation and Settlement of Legal Questions	45
Art. 87. Payment of Contribution	56	Art. 77. Contributions of Members	46
Art. 88. Entry Into Force	57	Art. 78. Entry Into Force	46
Art. 89. Withdrawal and Termination		Art. 79. Withdrawal and Termination	47

EXHIBIT IV–C

MULTILATERAL TRADE-AGREEMENT NEGOTIATIONS

RESOLUTION REGARDING THE NEGOTIATION OF A MULTILATERAL TRADE AGREEMENT EMBODYING TARIFF CONCESSIONS ADOPTED AT THE FIRST SESSION OF THE PREPARATORY COMMITTEE OF THE UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT, LONDON, OCTOBER 1946

Whereas the Resolution of the Economic and Social Council on 18 February 1946, decided to call an International Conference on Trade and Employment for the purpose of promoting the expansion of production, exchange and consumption of goods, constituted this Committee to elaborate an annotated draft agenda, including a draft convention, for consideration by the Conference, and

suggested that the Agenda of this Committee include among its topics "International Agreement relating to regulations, restrictions and discriminations affecting international trade", and "Establishment of an International Trade Organization" and

Whereas the United States Government had invited the governments appointed by the Economic and Social Council as members of this Committee to meet to negotiate concrete arrangements for the relaxation of tariffs and trade barriers of all kinds and the invitation has been accepted by the governments attending the present session of the Preparatory Committee and

Whereas the task of the Conference will be facilitated if concrete action is taken by the principal trading nations to enter into reciprocal and mutually advantageous negotiations directed to the substantial reduction of tariffs and to the elimination of preferences

The Preparatory Committee of the International Conference on Trade and Employment

Hereby recommends to the governments concerned that the meeting of members of the Preparatory Committee envisaged by the invitations sent out by the United States Government should be held under the sponsorship of the Preparatory Committee in connection with, and as a part of, the Second Session of the Committee, conducted in accordance with the procedures recommended in the Memorandum on Procedures approved by the Preparatory Committee at its current Session

And invites the member governments to communicate to the Executive Secretary their views on this recommendation.

Procedures for Giving Effect to Certain Provisions of the Charter of the International Trade Organization by Means of a General Agreement on Tariffs and Trade Among the Members of the Preparatory Committee

SECTION A. INTRODUCTION

The Preparatory Committee has resolved to recommend to the governments concerned that the Committee sponsor traffic and preference negotiations among its members to be held in Geneva commencing 8 April, 1947. Upon the completion of these negotiations the Preparatory Committee would be in a position to complete its formulation of the Charter and approve and recommend it for the consideration of the International Conference on Trade and Employment which would be in a position to consider the Charter in the light of the assurance afforded as to the implementation of the tariff provisions.

SECTION B. PROPOSED NEGOTIATIONS AMONG MEMBERS OF PREPARATORY COMMITTEE

General

The results of the negotiations among the members of the Preparatory Committee will need to be fitted into the framework of the International Trade Organization after the Charter has been adopted. The negotiations must, therefore, proceed in accordance with the relevant provisions of the Charter as already provisionally formulated by the Preparatory Committee. In the light of these provisions, the comments and explanations which follow may be useful as a guide to the negotiations.

General Objectives

An ultimate objective of the Charter, elaborated in Article 24, is to bring about the substantial reduction of tariffs and the elimination of tariff preferences. The negotiations among the members of the Preparatory Committee should, therefore, be directed to this end and every effort should be made to achieve as much progress toward this goal as may be practicable in the circumstances, having regard to the provisions of the Charter as a whole.

SECTION C. GENERAL NATURE OF NEGOTIATIONS

1. Article 24 of the Charter provides that tariff negotiations shall be on a "reciprocal" and "mutually advantageous" basis. This means that no country would be expected to grant concessions unilaterally, without action by others, or to grant concessions to others which are not adequately counterbalanced by concessions in return.

2. The proposed negotiations are also to be conducted on a selective, product-by-product basis which will afford an adequate opportunity for taking into account the circumstances surrounding each product on which a concession may be considered. Under this selective procedure a particular product may or may not be made the subject of a tariff concession by a particular country. If it is decided to grant a concession on the product, the concession may either take the form of a binding of the tariff against increase or a reduction of the tariff. If the tariff on the product is reduced, the reduction may be made in greater or lesser amount. Thus, in seeking to obtain the substantial reduction of tariffs as a general objective, there is ample flexibility under the selective procedure for taking into account the needs of individual countries and individual industries.

3. The same considerations and procedures would apply in the case of import tariff preferences, it being understood that, in accordance with the principles set forth in Article 14 of the Charter (Most-Favoured-Nation Treatment) any preferences remaining after the negotiations may not be increased.

4. The various observations in this report regarding the negotiation of tariffs and tariff preferences should be read as applying (*mutatis mutandis*) to the negotiation of state-trading margins under Article 31 of the Charter.

SECTION D. GENERAL RULES TO BE OBSERVED IN NEGOTIATIONS

Paragraph (1) of Article 24 of the Charter sets forth the following self-explanatory rules to be observed during the negotiations:—

"(*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 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.

(*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."

SECTION E. MISCELLANEOUS RULES FOR GUIDANCE

There are a number of additional questions which should be borne in mind in preparing for the proposed tariff negotiations among the members of the Preparatory Committee.

Base Date for Negotiations

1. Paragraph (1) of Article 14 of the Charter would except from the most-favoured-nation provisions preferences "which do not exceed the preferences remaining after . . . negotiations." This means that all margins of preference remaining after negotiations would be bound against increase. Also, as explained above, Article 14 requires that reductions of most-favoured-nation rates of duties shall operate automatically to reduce or eliminate margins of preference.

2. In order to determine what residual preferences shall be bound against increase under Article 14, and in order to determine what preferences shall be reduced or eliminated automatically under Article 24, it is necessary to establish a date which will fix the height of the preferences in effect prior to the negotiations.

3. It would be desirable for such purposes to fix a single date, common to all the countries participating in the negotiations. However, the discussions during the First Session of the Preparatory Committee indicate that the establishment of a common date presents certain difficulties and may not be practicable. It is, therefore, suggested that immediately following the close of the First Session each member of the Committee concerned should inform the Secretariat of the United Nations as to the date which it proposes to use as the base date for negotiations with respect to preferences. The Secretariat will promptly inform the other members. The base date for negotiations established by any country granting preferences should hold good for its negotiations on all products with all other members of the Preparatory Committee, and should not vary from member to member or from product to product.

Avoidance of New Tariff or other Restrictive Measures

It is important that members do not affect new tariff measures prior to the negotiations which would tend to prejudice the success of the negotiations in

achieving progress toward the objectives set forth in Article 24, and they should not seek to improve their bargaining position by tariff or other restrictive measures in preparation for the negotiations. Changes in the form of tariffs, or changes in tariffs owing to the depreciation or devaluation of the currency of the country maintaining the tariffs, which do not result in an increase of the protective incidence of the tariff, should not be considered as new tariff increases under this paragraph.

Principle Supplier Rule

1. It is generally agreed that the negotiations should proceed on the basis of the "principal supplier" rule, as defined in this paragraph. This means that each country would be expected to consider the granting of tariff or preference concessions only on products of which the other members of the Preparatory Committee, are, or are likely to be, principal suppliers.

2. In determining whether, on the basis of the "principal supplier" rule, a product is to be included in the negotiations, reference should be had not merely to whether a particular member of the Preparatory Committee is, or may become, a principal supplier, but to whether the members of the Committee, taken as a whole, supply, or are likely to supply, a principal part of the product in question.

3. In other words, if a principal part of total imports of a particular product into the territory of a particular member is supplied by the other members of the Preparatory Committee taken together, then the importing member should, as a general rule, be willing to include that product in the negotiations, even though no single other member of the Committee, taken by itself, supplies a principal part of the total imports of the product.

4. In estimating the future prospects of a member, or the members taken together, to become a principal supplier of a product, consideration should be given to the probable disappearance of ex-enemy countries as suppliers of certain products and of the changes in the currents of trade created by the war.

Form of Tariff Schedules

1. It is contemplated that the tariff negotiations among the members of the Preparatory Committee will be multilateral, both in scope and in legal application. Thus, there would result from the negotiations a total of sixteen [1] schedules of tariff concessions, each schedule setting forth a description of the products and of the maximum (concession) rates of duty thereon which would be applicable in respect of the imports into a particular country. In this way each member of the Committee would be contractually entitled, in its own right and independently of the most-favored-nation clause, to each of the concessions in each of the schedules of the other members.

2. The multilateral form of the tariff schedules is designed to provide more stability than has existed in the past under bilateral tariff agreements, to assure certainty of broad action for the reduction of tariffs and to give to countries a right to tariff concessions on particular products which such countries might wish to obtain, but could not obtain under bilateral agreements, because of their relatively less important position as a supplier of the product concerned. The multilateral form also gives expression to the fact that each country stands to gain when another country grants tariff reductions on any product, even though primarily supplied by a third country. This point can be finally settled when the negotiations have proceeded sufficiently to enable all the varying factors to be taken into account.

Status of Preferential Rates of Duty

1. The formulation by each member of the Preparatory Committee of a schedule of tariff concessions, which would apply to all other members, raises a question as to the method of relating to such schedules preferential rates of duty, which have been negotiated, as well as preferential rates on products for which most-favored-nation rates have been negotiated. There appear to be two methods which might be followed;

(*a*) Such preferential rates might be incorporated in the multilateral schedules, qualified by the requirement that they apply only to the products of the countries receiving preferred treatment.

(*b*) Such preferential rates might be incorporated in separate schedules which would apply only to the preferred countries.

[1] If the principles indicated in Article 33 of the Draft Charter should prove acceptable to the Soviet Union, there may in addition, be a schedule relating to an undertaking by the Soviety Union to purchase annually products valued at not less than an aggregate amount to be agreed upon.

2. It should be left to the country concerned to determine which of the two methods indicated above it desires to follow. However a single schedule containing both most-favoured-nation and preferential rates would seem to facilitate the work of both traders and governments.

SECTION F. PROCEDURES FOR CONDUCTING NEGOTIATIONS AMONG THE MEMBERS OF THE PREPARATORY COMMITTEE

1. It is believed that the tariff negotiations among the members of the Preparatory Committee can best be conducted in four stages:

First Stage. (*a*) Each member should transmit to each other member, from which it desires to obtain tariff concessions, as soon as possible and preferably not later than 31 December 1946, a preliminary list of concessions which it proposes to request of such other member. This list should set forth for each product concerned

(i) an indication of the existing rate of duty (where known) and

(ii) an indication of the requested rate of duty. Thirty copies of this list should be sent simultaneously to the Secretariat of the United Nations, which will transmit one copy to each of the other members of the Preparatory Committee.

(*b*) In order to facilitate the negotiations, each member of the Preparatory Committee should transmit to the Secretariat of the United Nations, as soon as possible and preferably not later than 31 December 1946, thirty copies of its customs tariff showing the rates of duty currently applicable. The Secretariat will promptly transmit one copy to each of the other members of the Committee.

Second Stage. At the opening of the Second Session of the Preparatory Committee each member should submit a schedule of the proposed concessions which it would be prepared to grant to all other members in the light of the concessions it would have requested from each of them.

Third Stage. (*a*) Notwithstanding the multilateral character of the negotiations, it will usually be found that only two or three countries will be directly and primarily concerned in the concession on a particular product, and that the interest of other countries, although material, will be secondary.

(*b*) It is, therefore, proposed that the third stage of the negotiations will ordinarily consist of discussions on particular products between two, or possibly three or four countries. Accordingly for the purpose of engaging in such negotiations, each country should to the extent practicable have separate groups of persons competent to negotiate with each of the other countries with which important negotiations are likely to be conducted.

(*c*) The number of negotiating groups required by each country will, of course, tend to vary with the scope of its trade relations. In the case of large trading countries having important trade relations with most or all of the other members of the Committee, a large number of negotiating groups will be required. In the case of countries having less extensive trade relations, a smaller number of negotiating groups will be sufficient.

(*d*) In any event the timing of negotiations between particular groups will need to be scheduled, and in order that the United Nations Secretariat may have adequate notice to prepare for such scheduling, it would be desirable for each member of the Committee to notify the Secretariat, as far in advance as may be practicable, of the number of negotiating groups, which the member proposes to send to the negotiating meeting, and of the country or countries to which each negotiating group relates.

Fourth Stage. (*a*) The progress of the negotiations should be subject to general review by the Committee as a whole periodically during the negotiations and also in the final stage. General review by the Committee as a whole will enable each member to assess the benefits which it is likely to receive from the series of negotiations in the light of its total contributions, and will offset the tendency toward limiting concessions which results from a comparison of benefits exchanged between two countries alone.

(*b*) It is clear that the general review by the Committee as a whole cannot take the form of a detailed examination of each concession. Rather the Committee would review the general level of tariff reduction achieved as indicated in summary reports. At the same time each member should be entitled to receive, on request, detailed information as to the status of negotiations on particular products between other members in order that it may be in a position to assert an interest in such negotiations.

2. In order that the negotiations may proceed in an orderly fashion, it is desirable that a Steering Committee be established as soon as the various delegations have assembled at the Second Session.

SECTION G. RESULT OF THE NEGOTIATIONS

If the tariff negotiations proceed successfully along the lines set forth above, there should emerge from the negotiations a tariff schedule for each member, each schedule containing concessions granted to all of the other members in their own right. These schedules might be identified as follows:

Names of Country[1]	*Schedule*
Australia	Schedule I
Belgo-Luxembourg-Netherlands Customs Union, Belgian Congo and Netherlands Overseas Territories	Schedule II
Brazil	Schedule III
Canada	Schedule IV
Chile	Schedule V
China	Schedule VI
Cuba	Schedule VII
Czechoslovakia	Schedule VIII
France and French Union	Schedule IX
India	Schedule X
New Zealand	Schedule XI
Norway	Schedule XII
Syro-Lebanese Customs Union	Schedule XIII
Union of South Africa	Schedule XIV
Union of Soviet Socialist Republics[2]	Schedule XV
United Kingdom and the overseas territories for which it has international responsibility	Schedule XVI
United States	Schedule XVII

[1] Separate, or possibly sub-divided, schedules may be necessary in the case of certain countries in order to provide adequately for certain overseas territories.

[2] If the principles indicated in Article 33 of the Charter should prove acceptable to the Soviet Union, this schedule would relate, not to tariff concessions, but to an undertaking to purchase annually products valued at not less than an aggregate amount to be agreed upon.

SECTION H. GENERAL AGREEMENT ON TARIFFS AND TRADE

1. Once agreed upon the tariff schedules resulting from the negotiations among the members of the Preparatory Committee cannot easily be held in abeyance pending action by the International Conference on Trade and Employment and the adoption of the Charter by national legislatures.

2. It is, therefore, proposed that the tariff schedules be incorporated in an agreement among the members of the Preparatory Committee which would also contain, either by reference or by reproduction, those general provisions of Chapter V of the Charter considered essential to safeguard the value of the tariff concessions and such other provisions as may be appropriated. The Agreement should contain a provision under which the signatory governments could make any adjustments in the Agreement which may be desirable or necessary in the light of the action taken by the International Conference on Trade and Employment on the Charter. A draft outline of a General Agreement on Tariffs and Trade appears in Section I. The Drafting Committee should consider this outline and prepare a more complete draft for the consideration of the Preparatory Committee at its Second Session.

3. The General Agreement on Tariffs and Trade should be signed and made public at the close of the tariff negotiations. The Agreement should be legally independent of the Charter and should be brought into force as soon as possible after its signature and publication. Countries should be free to withdraw from the agreement at the end of three years or thereafter on giving six months' prior notice. This will provide an opportunity for a review of the Agreement and any adjustment of the tariff schedules which may be considered desirable.

4. The Agreement should conform in every way to the principles laid down in the Charter and should not contain any provision which would prevent the operation of any provision of the Charter.

5. The tariff concessions granted under the Agreement should be provisionally generalized to the trade of other countries pending the consideration by the International Conference on Trade and Employment of the question whether benefits

granted under the Charter should be extended to countries which do not join the International Trade Organization and which, therefore, do not accept the obligations of Article 24.

SECTION I. CREATION OF A PROVISIONAL AGENCY PENDING THE ESTABLISHMENT OF THE INTERNATIONAL TRADE ORGANIZATION

Certain of the provisions of the General Agreement on Tariffs and Trade, for example, those incorporating Article 34 of the Charter (Emergency Action on Imports of Particular Products) and Article 35 of the Charter (Nullification or Impairment), will require for their successful operation the existence of an international body. It is proposed, therefore, that the members of the Preparatory Committee, which make effective the General Agreement on Tariffs and Trade, should create a provisional international agency for this purpose. This provisional agency would go out of existence upon the establishment of the International Trade Organization.

SECTION J. RELATION OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE TO THE INTERNATIONAL TRADE ORGANIZATION AFTER ITS ESTABLISHMENT

Interim Tariff Committee

1. The Charter as now formulated provides in Article 37 that the countries which make effective the General Agreement on Tariffs and Trade shall constitute the original members of the Interim Tariff Committee to be set up within the International Trade Organization after the International Conference on Trade and Employment has met and the Organization has been established.

2. The Interim Tariff Committee will have the function of determining whether (with respect to any negotiations subsequent to those culminating in the General Agreement on Tariffs and Trade) any member of the Organization has failed to live up to its obligation regarding tariff negotiations and, under paragraph (3) of Article 24 of the Charter, of authorizing complaining members to withhold tariff benefits from offending members. The following points should be noted with regard to this function:

(*a*) A member of the Organization may be admitted to membership in the Committee when the member has completed tariff negotiations "comparable in scope or effect" to the negotiations already completed by the original members of the Committee. Thus, what is achieved by way of tariff action in the General Agreement on Tariffs and Trade will become the standard to which members of the Organization will be expected to conform in order to obtain membership of the Interim Tariff Committee. In applying this standard the Committee should have regard to the provisions of the Charter as a whole.

(*b*) Since it is agreed that the original members of the Interim Tariff Committee will have taken adequate steps toward fulfillment of the tariff obligations of the Charter in respect of negotiations among themselves (see Article III of the draft General Agreement on Tariffs and Trade), the Committee may not authorize one original member of the Committee to withhold tariff concessions from another original member of the Committee.[1] This would be without prejudice, of course, to any decisions reached, under the auspices of the Organization, regarding a second series of tariff negotiations among the members of the Committee.

(*c*) Members of the Interim Tariff Committee must, in negotiations with members of the Organization which are not members of the Committee, be prepared to consider concessions on products of interest to the latter which were not dealt with in the original negotiations. Refusal to negotiate on such products might warrant a legitimate complaint. Accordingly the Committee could in such cases authorize a member of the Organization, which is not a member of the Committee, to withhold tariff benefits from a member of the Committee. However, the extent to which a member of the Organization, which is not a member of the Committee, might withhold tariff benefits from a member of the Committee would be limited only to tariff concessions which the former had already made pursuant to Article 24 and general tariff penalties could not be applied.

[1] It should be noted that the Organization, as distinct from the Committee, could authorize an original member of the Committee to withhold benefits from another original member of the Committee under certain other provisions of the Charter.

(*d*) The authority of the Committee would in all cases be limited to granting permission to a member of the Organization to withhold tariff benefits from another member. In no event could the Committee compel a member to withhold benefits.

Procedure for Broadening Membership in the Interim Tariff Committee through Additional Tariff Negotiations

1. Procedures must be developed for assuring, by negotiation, action for the reduction of tariffs and the elimination of preferences by members of the Organization, which are not parties to the General Agreement on Tariffs and Trade and hence would not be original members of the Interim Tariff Committee. The following alternative procedures are suggested for consideration:

(*a*) The original members of the Interim Tariff Committee would negotiate separate bilateral agreements with members of the Organization, which are not members of the Committee, and the latter would negotiate such agreements between themselves. The Committee would judge as to when a particular country had completed enough such agreements to entitle it to membership in the Committee.

(*b*) A member of the Organization, which is not an original member of the Committee, might offer to negotiate with the Committee a multilateral schedule of concessions similar in scope and legal application to the schedules appended to the General Agreement on Tariffs and Trade concluded among the original members of the Interim Tariff Committee and the original members of the Committee would agree to amend the multilateral schedules appended to the General Agreement on Tariffs and Trade to the extent necessary to assure appropriate concessions on products of which the country, not a member of the Committee, was a principal supplier.

2. Whatever procedure is adopted, due weight should be given in the negotiating process to concessions already made as a result of prior negotiations.

SECTION E. TENTATIVE AND PARTIAL DRAFT OUTLINE OF GENERAL AGREEMENT ON TARIFFS AND TRADE

The governments in respect of which this Agreement is signed:

Having been named by the Economic and Social Council of the United Nations to prepare, for the consideration of the International Conference on Trade and Employment, a Charter for an International Trade Organization of the United Nations;

Having, as the Preparatory Committee for the Conference, recommended to the Conference the provisions of such a Charter, the text of which is set forth in the Report of the Preparatory Committee; and

Being desirous of furthering the objectives of the Conference by providing an example of concrete achievement capable of generalization to all countries on equitable terms;

Have, through their respective Plenipotentiaries, agreed as follows:

Article I

1. During the life of the Agreement each signatory government shall make effective in respect of each other signatory government the provisions described below of the Charter for an International Trade Organization of the United Nations recommended in the report of the Preparatory Committee.

[There would follow a list of the articles to be included in the Agreement.]

2. Functions entrusted to the proposed International Trade Organization under any of the provisions of the Charter incorporated in this Agreement by virtue of paragraph 1 of this Article shall, pending the establishment of the Organization, be carried out by a provisional international agency consisting of delegates appointed by the signatory governments.

Article II

With regard to Articles 24, 32 and 33 of the Charter, which relate to negotiations for

1. The reduction of tariffs and the elimination of tariff preferences, and
2. Parallel action by state-trading enterprises,

the signatory governments declare that they have, by virtue of Article III of this

Agreement, taken this step towards fulfilment of the obligations of these Articles in respect of themselves and that they stand ready, in conformity with the spirit of these Articles, to undertake similar negotiations with such other governments as may desire to become members of the International Trade Organization.

Article III

Each signatory government shall accord to the commerce of the customs territories of the other signatory governments the treatment provided for in the appropriate Schedule annexed to this Agreement and made an integral part thereof.

Article IV

(This Article would set forth the general exceptions provided for in Article 37 of the Charter.)

Article V

(This Article would reproduce the provisions of Article 38 of the Charter relating to territorial application.)

Article VI

(This article would permit revision of the Agreement, by agreement among the signatories, if necessary or desirable in order to take account of changes in the Charter effected by the International Conference on Trade and Employment.)

Article VII

(This Article would provide for the entry into force of this Agreement, its duration, and its termination. The Agreement would remain initially in force for three years. If not terminated at the end of the three-year period (which would require six months' prior notice), it would remain in force thereafter, subject to termination on six months' notice.

There would be a number of purely technical and of purely legal provisions.)

Exhibit IV–D

OFFICIAL REPORT OF THE UNITED STATES DELEGATION TO THE FIRST MEETING OF THE PREPARATORY COMMITTEE FOR THE INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT, LONDON, ENGLAND, OCTOBER 15, 1946

INDEX

	Page
I. Background	885
II. Agenda	886
III. Participation	886
IV. United States delegation	886
V. Travel	887
VI. Conference Arrangements	887
VII. Opening Plenary Sessions	887
VIII. Organization of the Preparatory Committee	889
A. General	889
B. Committees	889
C. The Secretariat	890
IX. Language	891
A. Official and Working Languages	891
B. Conference Publications	891
C. General Comment on Interpretation and Language Difficulties	891
X. Policy With Regard to the Press	891
XI. Work of the Committees	891
A. Committee I: Employment and Economic Activity	891
1. Undertakings With Respect to Levels of Employment and Effective Demand	892
2. Other Issues and Undertakings	893
XI. Work of the Committees—Continued	
B. Committee II: General Commercial Policy	894
1. General Most-Favored-Nation Treatment	895
2. General Commercial Provisions (Except Most-Favored-Nation Treatment and General Exceptions)	895
3. Reduction of Tariffs and Elimination of Preferences	895
4. Quantitative Restrictions and Exchange Control	896
(i) General Elimination of Quantitative Restrictions	896
(ii) Restrictions to Safeguard the Balance of Payments	896
(iii) Administration of Quantitative Restrictions	897
(iv) Exchange Control	897
5. Subsidies	898
6. State Trading	898
7. Emergency Provisions—Consultation—Nullification and Impairment	898

INDEX—Continued

	Page
XI. Work of the Committees—Continued	
B. Committee II—Continued	
8. Territorial Application of the Commercial Policy Provisions—Customs Unions—Frontier Traffic	899
9. Memorandum on Multilateral Trade Agreement Negotiations	899
C. Committee III: Restrictive Business Practices	900
1. Introduction	900
2. General Outline of Chapter VI of the Redrafted Charter	901
3. Modifications of the Original U. S. Draft Charter	901
D. Committee IV: Intergovernmental Commodity Arrangements	903
1. Need for Commodity Arrangements Appreciated	903
2. Committee IV Procedure	904
3. Principles of Commodity Arrangements	904
4. Different Types of Arrangements	905
5. Steps in Arriving at Intergovernmental Arrangements	905
XI. Work of the Committees—Continued	
E. Committee V: Administration and Organization	906
1. Membership and Functions	906
2. The Conference	906
3. Voting and Executive Board Membership	907
4. The Executive Board	907
5. The Commissions	907
6. The Secretariat	908
7. Miscellaneous Provisions	908
F. Joint Committee of Committees I and II: Industrial Development	909
1. Recognition of the Importance of Economic Development	909
2. Positive Aids to Economic Development	909
3. Protective Measures to Assist Development	910
4. Allocation of Functions	911
XII. Entertainment and Official Functions	912
XIII. Closing Plenary Sessions	912
XIV. Summary and Appraisal	912

I. Background

In December, 1945, the Government of the United States published and transmitted to other governments for their consideration its *Proposals for Expansion of World Trade and Employment*. These Proposals contain suggestions for rules to govern trade barriers, restrictive business practices, intergovernmental commodity arrangements, the international aspects of domestic employment policies, and outlined a suggested structure for an International Trade Organization of the United Nations whose members would agree to conduct their commercial relations in accordance with these rules. This publication coincided with the conclusion of negotiations with the Government of the United Kingdom with respect to the British loan. The Government of the United Kingdom at that time stated that it was in full agreement on all important points with these Proposals, and that it accepted them as a basis for international discussion.

Shortly thereafter, the United States Government issued invitations to the Governments of Australia, Belgium, Brazil, Canada, China, Cuba, Czechoslovakia, France, India, The Netherlands, New Zealand, South Africa, the U. S. S. R., and the United Kingdom envisaging the convening of an International Conference on Trade and Employment for the purpose of establishing an International Trade Organization of the United Nations which would carry the ideas of the Proposals into effect. These fourteen governments were invited to join the United States in: (a) a preparatory meeting to lay the groundwork for the International Conference by preparing a draft Charter for the Organization; and (b) a meeting to negotiate concrete arrangements for the relaxation of tariffs and trade barriers of all kinds. With the exception of the U. S. S. R., all the fourteen governments accepted the invitation of the United States Government from both points of view.

On March 5, 1946, the Economic and Social Council passed a resolution under which the Council decided that it would itself sponsor the International Conference on Trade and Employment and under which it set up under its own auspices a Preparatory Committee consisting of the fifteen governments above named, with the addition of the Governments of Chile, Lebanon and Norway, to lay the groundwork for the Conference by the elaboration of an annotated draft agenda, including a draft Charter, for its consideration. Thus the Council took over from the United States Government the initiative on the first matter ("a", above) covered in the United States invitation.

At the same time, the Council suggested to the Preparatory Committee that its agenda include the following topics:

"(a) International agreement relating to the achievement and maintenance of high and stable levels of employment and economic activity,

"(b) International agreement relating to regulations, restrictions and discrimination affecting international trade,

"(c) International agreement relating to restrictive business practices,

"(d) International agreement relating to intergovernmental commodity arrangements,

"(e) Establishment of an international trade organization, as a specialized agency of the United Nations, having responsibilities in the fields of (b), (c) and (d) above;"

The Council also requested the Preparatory Committee to take into account the special conditions which prevail in countries whose manufacturing industry is still in its initial stages of development, and the questions that arise in connection with commodities which are subject to special problems of adjustment in international markets. The U. S. S. R., which was a member of the Council, voted in favor of this resolution.

In preparation for the first session of the Preparatory Committee, which was scheduled by the Secretary-General of the United Nations to be held in London beginning on October 15, 1946, the various agencies within the United States Government interested in this field collaborated in the preparation of a *Suggested Charter for an International Trade Organization*, based upon the Proposals. This Suggested Charter was made public in September 1946, after months of intensive preparation. (More discussion of the background of the Conference is contained in Section 14 on pages 55 to 62.)

II. Agenda

Other than formal matters, such as election of officers, adoption of rules of procedure, etc., the agenda of the first session of the Preparatory Committee was based upon the resolution of the Economic and Social Council quoted above (page 2). However, in setting up the working committees, the Preparatory Committee made the following changes:

Topic (a), which was assigned to Committee I, was changed to read "International agreement relating to the achievement and maintenance of high and steadily rising levels of effective demand, employment and economic activity";

A new topic, which was assigned to a Joint Committee of Committees I and II, was inserted as follows: "International agreement relating to industrial development";

Topic (e) was amended to read "Establishment of an international trade organization as a specialized agency of the United Nations having appropriate responsibilities in the above field";

Topic (b) was assigned to Committee II;

Topic (c) was assigned to Committee III;

Topic (d) was assigned to Committee IV;

Topic (e), as amended, was assigned to Committee V.

The agenda for the session, in its original form as submitted by the Secretariat, is contained in Appendix A, attached hereto. The last few items on this document were left for the second session of the Preparatory Committee scheduled to meet in Geneva on April 8, 1947.

III. Participation

Delegations representing seventeen of the eighteen governments mentioned in Section I were present when the Conference convened on October 15, 1946. A joint delegation represented the Governments of Belgium and Luxembourg.

Also present at the Conference were representatives of certain of the specialized agencies of the United Nations. These included the Food and Agriculture Organization, the International Labor Organization, the International Bank for Reconstruction and Development, and the International Monetary Fund. Nongovernmental organizations included the International Chamber of Commerce, International Cooperative Alliance, World Federation of Trade Unions, and the American Federation of Labor. The following members of the United Nations sent observers to the Conference: Colombia, Denmark, Poland, Peru and Mexico.

IV. United States Delegation

President Truman designated Mr. Clair Wilcox, Director of the Office of International Trade Policy, Department of State, as chairman of the United States Delegation, and Mr. Harry C. Hawkins, Counselor for Economic Affairs, American Embassy, London, England, as vice-chairman. The delegates to the Conference were:

Lynn R. Edminster, Vice Chairman, United States Tariff Commission; John W. Gunter, U. S. Treasury Representative, American Embassy, London, England; John H. G. Pierson, Consultant on Employment Policy, Bureau of Labor Statistics, Department of Labor; Robert Schwenger, Special Assistant

to the Director, Office of Foreign Agricultural Relations, Department of Agriculture; Frank Shields, Chief, Policy Formulation Staff, Department of Commerce.

The Advisers were:

Willis C. Armstrong, Adviser on State Trading, Commercial Policy Division, Department of State; Edmund H. Kellogg, Division of International Organization Affairs, Department of State; Donald D. Kennedy, Chief, International Resources Division, Department of State; John M. Leddy, Adviser on General Commercial Policy, Division of Commercial Policy, Department of State; Robert P. Terrill, Associate Chief, International Resources Division, Department of State.

Mr. J. Robert Schaetzel, Special Assistant to the Director, Office of International Trade Policy, Department of State, was designated as Technical Secretary, and Mr. Basil Capella, Division of International Conferences, Department of State, was Secretary of the Delegation.

V. Travel

The United States Delegation left LaGuardia Airport, New York City, at one p. m., October 11, and arrived at the London airport at one p. m., October 12. As the main work of the Conference, with the exception of the Final Plenary Session, was completed by November 23, the majority of the members of the Delegation returned to the United States on that date via the *SS America*.

VI. Conference Arrangements

All meetings of the Conference took place at Church House, Dean's Yard, Westminster, S. W. I., London. The temporary London office of the United Nations is also headquartered at Church House, thereby facilitating administration of the Conference.

Members of the United States Delegation were situated at the Mount Royal Hotel, Marble Arch, during the entire period of the Conference. The Mount Royal Hotel is a comparatively new hotel which, of course, assured each member adequate living facilities and comfort. The Mount Royal Hotel is located only two blocks from the Embassy canteen, which provided good meals at a reasonable cost.

The main office of the United States Delegation was located at the American Embassy. A second office was maintained at Church House for the convenience of the delegates while attending committee meetings.

VII. Opening Plenary Sessions

The sessions were inaugurated by a speech by Sir Stafford Cripps, President of the United Kingdom Board of Trade, as a representative of the host Government. In his speech he stated: that it was necessary to avoid the economic chaos and the blocking of channels of trade which had occurred after the last war; that it will be necessary for nations to give up some of their sovereignty in the economic field; that, in the opinion of the United Kingdom, the fundamental idea in this field was that it must be both the policy and the duty of each separate nation to provide for full employment and to avoid the "exporting" of unemployment; and finally, that although risks must be taken in the field of international trade, it would not be possible to divert trade from its old channels unless there was some assurance that new channels would be created.

Mr. Wilcox, Chairman of the United States Delegation, discussed the proposed trade organization as the final major step in setting up of the United Nations international framework. He named the five principles on which he felt that all nations must agree: (1) that existing barriers to trade should be substantially reduced; (2) that international trade should be multilateral rather than bilateral and the avoidance of political considerations in the field of trade; (3) that international trade should be non-discriminatory; (4) that stabilization policies and trade policies should be consistent; and finally, (5) that the rules of international commerce should be so drafted that they would apply with equal force to all nations regardless of their different types of economies. Mr. Wilcox referred to the need both of the United States, and of all other countries, to increase their imports and exports. He also referred to the desire of the United States to aid in the early industrialization of the less developed sections of the world on a sound basis.

Senhor da Silva, of Brazil, stressed the correction of economic inequalities throughout the world, and the need for a positive policy for the industrialization of the less developed countries.

Dr. Coombs, of Australia, stated that there were five principles which his country considered to be basic in the field of international commerce, as follows: (1) that each government should ensure full employment to its citizens; (2) that member governments of the Organization should make it possible for their people to use their foreign exchange to buy goods from other countries or to invest in foreign development schemes; (3) that member governments should develop their economic resources; (4) that member governments must act to prevent violent fluctuations in prices in primary commodities; and (5) that the rules governing international trade and the structure of the Organization must be such as to assist member governments to fulfill their obligations.

Mr. Le Bon (Belgium-Luxembourg) spoke of the sympathy of those Governments with the United States Charter, and discussed the proposed customs union with The Netherlands which he cited as evidence of the sympathy of his Government with the United States principles.

Mr. McKinnon, of Canada, said that his Government was in agreement with the United States objectives and felt that they would, by expanding trade, bring about ever increasing employment opportunities.

Senor Bianchi (Chile) referred to the dependence of his country upon international trade, particularly in raw materials and semi-manufactured products. He referred to the necessity for stabilization in the prices of these products and to the need to increase production and to bring about industrialization in the under-developed countries.

Mr. Augenthaler, of Czechoslovakia, referred to the dependence of his country upon international trade and to the dislocations which his country had suffered as a result of the war. He said that Czechoslovakia would need a certain period for recuperation and that, although she must develop her trade with the U. S. S. R. and the countries in Central and Southern Europe, she would also attempt to further her relations with the Western countries.

Mr. King, of China, stated that account must be taken of the varying degrees of economic development in different countries and that the elimination of trade barriers must have regard to the progress of economic recovery from war devastation and to a long-term policy of creating a balanced internal economy.

Senor Alvarez, of Cuba, referred to certain principles including the following: (1) that the working conditions of the laboring class must be improved in connection with the improvement of trade; (2) that diversification of employment must be encouraged and to that end adequate means of protection must be adopted; (3) that the preferential tariff arrangement affecting Cuba should not be suppressed automatically and that real wages and social protection for the working classes should be considered; and (4) that commodity councils should come into being independently of the Trade Organization.

Mr. Colban (Norway) was in full agreement with the United States objectives and particularly with the elimination of quotas.

M. Alphand (France) pointed out the agreement of his country with the United States Proposals, but described the devastation of his country as a result of the war and stated that it would be necessary for his country to retain quantitative controls for an interim period until she could restore her pre-war position. He compared his country to an under-developed country in this respect.

Mr. Nehru (India) took a strong position with respect to the development of backward countries. He stated that Indian development must stress rapid industrialization, a planned economy, and the equal sharing of the fruits of progress among all the people. He stated that his country must retain its power to regulate its trade relations with other countries by means which would be both effective and economical.

Mr. Hakim (Lebanon) stressed the need of his country for an industrial rather than an agricultural economy. Full employment would not be enough and employment must be made more productive. For this objective, Lebanon would need tariff protection, the importation of capital goods and possibly regional preferences in order to develop regional markets for new industries.

Dr. Speekenbring (Netherlands) stressed the need for stability in the prices of primary products and expressed the strong support of his country for the United States objectives.

Mr. Campbell (New Zealand) stated that the principles must be made sufficiently flexible to cover the needs of under-developed countries.

Mr. Brennan (South Africa) expressed his Government's agreement with the United States principles and stated that they must be made more flexible.

Mr. Marquand (United Kingdom) expressed again his country's interest in full employment and their belief that while the freeing of trade from trade barriers is essential it was also necessary to supplement this with provisions for the development of under-developed countries.

VIII. Organization of the Preparatory Committee

A. General

M. M. Suetens, of Belgium, was elected Chairman of the Preparatory Committee at its first plenary session on October 15, 1946. The first and second vice-chairmen were, respectively, H. E. Zdenek Augenthaler, of Czechoslovakia, and H. E. Senor Alberto Inocente Alvarez, of Cuba.

M. Suetens and Mr. Augenthaler serves as a committee on credentials.

The Heads of Delegations met periodically, under the chairmanship of M. Suetens, to review and guide the Preparatory Committee's work.

B. Committees

The following main committees were established:

(1) The Committee on Employment (Committee I):
Chairman: Dr. Wunsz King, of China.
Vice-Chairman: Mr. S. D. Pierce, of Canada.
Membership Representatives of all delegations.
Sub-Committees of Committee I:
A drafting sub-committee made up of delegates from Australia, Brazil, Cuba, Indian, the United Kingdom, and the United States.

(2) The Committee on General Commercial Policy (Committee II):
Chairman: Dr. H. C. Coombs, of Australia.
Vice Chairman: Dr. A. B. Speekenbrink, of The Netherlands.
Membership: Representatives of all delegations.
Sub-Committees of Committee II:
The Procedures Sub-Committee, including delegates from Canada, Chile, Cuba, France, India, the United Kingdom, and the United States, which considered Articles 8, 18, 29, 30, and 33 of the U. S. Suggested Charter and the procedures for the proposed multilateral trade agreement negotiations among Members of the Preparatory Committee.
The Technical Sub-Committee, with representatives of all delegations, which considered Articles 9–17 and Article 32.
The Sub-Committee on Quantitative Restrictions and Exchange Control, with delegates of Australia, Brazil, France, India, the United Kingdom, and the United States, which considered Articles 10–24.
The Sub-Committee on Subsidies on Primary Products, including delegates from Australia, Brazil, Canada, The Netherlands, the United Kingdom, and the United States, which considered Article 25.
The Sub-Committee on Subsidies on Manufactured Products, made up of delegates of India, the United Kingdom, and the United States, which considered Article 25.
The State-trading Sub-Committee, including delegates from China, Czechoslovakia, New Zealand, the United Kingdom, and the United States, which considered Articles 26, 27, and 28. This sub-committee was assisted by a small Sub-Committee on Marketing Boards, made up of delegates of The Netherlands, South Africa, and the United States.

(3) Committee on Restrictive Business Practices (Committee III):
Chairman: M. Pierre Dieterlin (France).
Vice-Chairman: Senor Don Higinio Gonzalez (Chile).
Membership: Representatives of all delegations.
Sub-Committees of Committee III:
A drafting sub-committee made up of delegates of the United Kingdom, Canada, India, Belgium, and the United States.

(4) Committee on Intergovernmental Commodity Arrangements (Committee IV):

Chairman: Mr. J. R. C. Helmore (United Kingdom).
Vice-Chairman: Mr. Bjarne Robberstad (Norway).
Membership: Representatives of all delegations.
Sub-Committees of Committee IV:

A Drafting Committee, including the Chairman and Vice-Chairman and delegates from Australia, Canada, Cuba, France, The Netherlands, the United Kingdom, and the United States.

An *ad hoc* sub-committee; composed of the Vice-Chairman and the delegates of Cuba, The Netherlands, and the United States, was appointed to meet with representatives of the International Chamber of Commerce.

(5) Committee on Administration and Organization (Committee V).
Chairman: Mr. Lynn R. Edminster (United States).
Vice-Chairman: Senor Helbo de Burgos Cabal (Brazil).
Membership: Representatives of all delegations.
Sub-Committees of Committee V:

From time to time the subject matter of various articles of the U. S. Suggested Charter were referred to special *ad hoc* sub-committees composed of those members who had taken the most active part in discussions of the articles in the full Committee.

(6) Joint Committee (of Committees I and II) on Industrial Development:
Chairman: Mr. H. S. Malik (India).
Vice-Chairman: Mr. Wunsz King (China) and Dr. H. C. Coombs (Australia).
Membership: Representatives of all delegations.
Sub-Committees of the Joint Committee:

A drafting sub-committee consisting of Delegates from Australia, Brazil, China, France, India, the United Kingdom, and the United States.

C. THE SECRETARIAT

The Secretariat was organized as follows:

Central Office

Executive Secretary	Mr. E. Wyndham-White (United Kingdom)
Deputy Executive Secretary	Mr. J. A. Lacarte (Uruguay)
Special Assistant	Mr. S. E. Rogers (Chile)
Legal and Rules of Procedure Officer	Mr. A. P. Renouf (Australia)
Administrative Assistant	Miss Mary Saunders (United Kingdom)

Committee Sections

Committee I	
Secretary	Mr. J. Stola (Czechoslovakia)
Associate Secretary	Mr. S. Johnsen (Norway)
Assistant Secretary	Miss Mary Greey (Canada)
Committee II	
Secretary	Mr. F. Hilgerdt (Sweden)
Associate Secretary	Mr. A. Loverdoes (Greece)
Associate Secretary	Mr. G. Stern (Czechoslovakia)
Associate Secretary	Mr. T. Hutchins (United States)
Assistant Secretary	Mr. T. Lin (China)
Committee III	
Secretary	Mr. C. H. Korican (United States)
Associate Secretary	Mr. A. P. Renouf (Australia)
Assistant Secretary	Miss C. Wachenheimer (United States)
Committee IV	
Secretary	Mr. P. R. H. Judd (Australia)
Associate Secretary	Mr. A. Gilpin (United Kingdom)
Assistant Secretary	Miss C. de Hedervary (Belgium)
Committee V	
Secretary	Mr. Bruce Turner (New Zealand)
Assistant Secretary	Mr. George Huang (China)
Joint Committee on Industrial Development	
Secretary	Mr. A. Dorfman (Argentina)
Associate Secretary	Mrs. Margaret F. Berger (United States)

IX. Language

A. Official and Working Languages

The official languages of the Conference were English, French, Spanish, Chinese and Russian. The working languages were English and French. Most of the documents distributed during the Conference were available in both French and English, and delegations could request that the translations be made into any of the other official languages.

The simultaneous interpretation system was used at the sessions which were held in the main conference hall. Additional interpreters were usually present at such meetings, however, to give subsequent translations into French or English in cases where the simultaneous interpretation was inadequate.

At meetings held in the small committee rooms, arrangements were generally made for subsequent interpretation, except in the cases of certain small sub-committees which, in order to conserve time, conducted their business in one language without interpretation.

B. Conference Publications

The Conference Secretariat published a daily, unrestricted *Journal*, in both French and English, which contained schedules of meetings, brief summary accounts of meetings of the previous day, lists of documents distributed, and other information.

Verbatim reports and summary records (minutes) of meetings of the plenary and executive sessions of the Preparatory Committee and of meetings of the main committees were kept in both English and French. Minutes were kept of the meetings of Heads of Delegations. Either minutes or verbatim reports were kept of sub-committee meetings. Verbatim reports and minutes were distributed to all delegations, usually on the day after the meetings took place. In addition, various other documents prepared by delegations or by the Secretariat were distributed to delegates.

C. General Comment on Interpretation and Language Difficulties

In the early stages of the meeting there was some dissatisfaction with the simultaneous interpretation system, particularly among the French-speaking delegations. The dissatisfaction was due in large part to the limited time allowed the United Nations in installing the system and general unfamiliary with the technique by the delegates. Some suggestions were offered that the simultaneous system should be discontinued and that reliance should be placed on the standard technique of subsequent interpretation. In the interest of saving time, the simultaneous system was used in the main conference hall throughout the Conference, with the understanding that if the simultaneous interpretation of any statement was inadequate, any delegate could ask for a subsequent interpretation of that statement. As the Conference gained experience in using the simultaneous system the United States delegation felt this technique was most useful and had great promise as a means of conserving valuable conference time.

X. Policy With Regard to the Press

The press was admitted to the opening and closing plenary sessions, but not to the other sessions of the Preparatory Committee or to the meetings of the various committees and sub-committees.

The Secretariat issued press releases from time to time on the work of the Conference, and the Executive Secretary and certain of the delegates held occasional press conferences.

XI: Work of the Committees

A. Committee I: Employment and Economic Activity

The close connection between trade and employment was recognized in the initial decision to hold a conference dealing with both subjects. It was clear that a two-way relationship is involved: (1) No matter how satisfactory employment levels may be in the various countries, the highest standards of living will not be obtained if barriers are allowed to block the flow of international

trade. This is true because some or all of the advantages of international specialization will be lost. (2) On the other hand, in the face of serious unemployment in one or more of the major industrial and trading countries, absence of harmful barriers—assuming the possibility in such circumstances of preventing the raising of such barriers—will fail to secure high standards of living or even a large volume of trade. The fact that tariffs, for example, are low will be unable to prevent a decline in income and demand which communicates itself from country to country through international markets.

The U. S. Draft Charter accordingly contained a chapter on employment provisions, which in five short articles recognized the relation of employment to the purposes of the Organization; pledged each member to take action designed to achieve and maintain full employment within its own jurisdiction through measures appropriate to its political and economic institutions; stated that employment measures should not be of such a character as to create unemployment in other countries or to conflict with trade objectives; provided for consultation and exchange of information on matters relating to employment; and assigned the relevant functions to the Economic and Social Council.

Unlike the other working committees, Committee I decided not to work from the U. S. Draft Charter. Instead it adopted the following simplified agenda: "International agreement relating to the achievement and maintenance of high and steadily rising levels of effective demand, employment, and economic activity. (1) General undertakings of members. (2) Recourse in case a member is damaged by failure of another member to fulfill undertakings. (3) Consultation and exchange of information. (4) Assignment of functions." The final report on its work included a series of draft articles considerably broader in scope than the original United States draft but consistent in form and spirit with that document, together with a draft resolution for the attention of the Economic and Social Council.

1. *Undertakings with respect to Levels of Employment and Effective Demand.* The central problem confronting Committee I involved the drafting of provisions that would contain as strong a commitment as was practicable with respect to maintenance of employment levels and levels of effective demand; that would adequately recognize the need of members to protect themselves if their economies should be threatened as a result of a falling off in employment and effective demand beyond their borders; and that would at the same time support rather than conflict with the commercial policy provisions of the Charter.

There was agreement that the ends sought were: (a) full employment—already recognized in Article 55 of the United Nations Charter to be a main purpose of the United Nations—and (b) high and stable levels of effective demand for goods and services. The second of these conditions tends to create and also to follow from the first, but adequate demand may nevertheless fail to be transmitted internationally by a full employment economy in certain circumstances, as noted below. With respect to the meaning to be attached to the term "ful employment", it was decided that while any government might adopt as strict an interpretation as it desired, for the purposes of an international agreement it was appropriate to interpret this condition as one in which useful employment opportunities are available to all those able and willing to work.

It was recognized that members could not guarantee full employment and high and stable demand, but it was agreed that they could and should undertake to "take action designed to achieve and maintain" these conditions within their jurisdiction. Each country would, of course, use measures "appropriate to its political and economic institutions". To this was added the proviso that the measures adopted should be "compatible with the other purposes of the Organization"; i. e., in promoting their employment, members should not use methods that would be in violation of their commitments to reduce trade barriers.

Particular attention was directed to the fact that a country might be maintaining full employment, by measures in harmony with accepted principles of trade, and might nevertheless unwittingly contribute to or be the agent of balance of payments difficulties and consequent deflationary pressure experienced by other countries. This could happen if, instead of using the proceeds from the sale of its exports to purchase imports or to make foreign investments, it were to sell considerably more than it bought or invested abroad, making up the balance by accumulating monetary reserves. Unlike the case in which its imports might decline because of its failure to maintain the high

national income associated with full employment, the export surplus here might be the means whereby the country in question was successfully sustaining its own domestic employment. On the other hand, it was recognized that responsibility for the maladjustment might also rest with the countries experiencing the balance of payments difficulties; such difficulties might, for example, be caused by a flight of capital from the currencies of those countries. The decision reached, in the light of these various considerations, was that each country should agree "that, in case of a fundamental disequilibrium in its balance of payments [terminology borrowed from the Articles of Agreement of the International Monetary Fund] involving other countries in presistent balance of payments difficulties which handicap them in maintaining employment, it will make its full contribution to action designed to correct the maladjustment".

Discussion turned next to the recourse that members should have if economic difficulties should be created for them as a result of inability on the part of other members to maintain full employment and high levels of effective demand as intended. One view was that the chapter dealing with employment should grant any member so affected a broad release from other obligations under the Charter. It was noted, however, that other parts of the Charter already carried provisions designed to meet such contingencies. For example, a member experiencing balance of payments difficulties—the form in which deflationary pressure originating abroad would ordinarily become apparent—could protect itself by imposing restrictions, under rules set forth in the chapter on commercial policy, on the quantity of goods imported. It was therefore concluded that the problem was one of assuring that the relevant exceptions or releases from obligations provided elsewhere in the Charter, and the machinery established to bring those provisions into effect, should be adequate to cover deflationary situations created by a failure of another member to maintain its employment and its effective demand. This was seen to be the responsibility of other committees. Committee I, however, expressly stipulated that the Organization "shall have regard, in the exercise of its functions as defined in the other Articles of this Charter, to the need of members to take action within the provisions of the International Trade Organization to safeguard their economies" in such situations.

The net effect of the various decisions summarized up to this point was: (a) to enable members to protect themselves by imposing certain ordinarily forbidden restrictive trade regulations, with the express permission of the Organization, under the terms of articles written into other parts of the Charter, in the event of imminent damage to their economies from the failure of other members to maintain their employment and their effective demand; but on the other hand, (b) to seek to minimize the need of any country to resort to such measures of self-defense by making the obligation on all members to maintain full employment and high and stable levels of effective demand as clear and as definite as possible.

2. Other Issues and Undertakings. Five other important issues were dealt with by Committee I and agreed conclusions reached (with certain limited reservations). There were: (1) development of resources and productivity; (2) labor standards; (3) consultation and information; (4) international (as contracted with member government) action relating to employment; and (5) the form that the employment provisions should take—i. e., their precise relation to the Charter of the International Trade Organization.

(1) Without questioning the importance of having full employment maintained in the major industrial and trading countries, spokesmen for a number of relatively under-developed countries pointed out that the prosperity of their economies will depend less on their ability to keep everyone at work than on their ability to improve the quality and productiveness of the work done. The acquisition of a modern technology was thus regarded as their greatest need. The Committee recognized the validity of this point in two ways: (a) by making clear throughout its report and recommendations that the objective is "productive" as well as "full" employment, or, in other words, that "under-employment" should be avoided as well as "unemployment"; and (b) by adding a new draft article in which, "recognizing that all countries have a common interest in the productive use of the world's resources," each member "agrees to take action designed progressively to develop economic resources and to raise standards of productivity within its jurisdiction"—this action, again, to take the form of "measures compatible with the other purposes of the Organization."

(2) The issue of labor standards was raised by a member who pointed out that wage rates and other labor conditions not only affect the quality or suitability of employment, and have an important bearing, by way of the distribution of purchasing power, upon the ability to maintain full employment, but also must be taken into account in connection with trade because of the possibility of unfair competition in export markets based on exploitation of labor. In the discussion of this question, full recognization was given to the general jurisdiction of the International Labor Organization in the labor standards field. At the same time, a large majority favored adding to the employment provisions in the Charter of the International Trade Organization an article in which, "recognizing that all countries have a common interest in the maintenance of fair labor standards,"—these standards being of necessity "related to national productivity"—each member "agrees to take whatever action may be appropriate and feasible to eliminate sub-standard conditions of labor in production for export and generally throughout its jurisdiction". Two delegations reserved their votes when this article was adopted by Committee I.

(3) The functions in the neld of employment to be performed by international bodies were in general assigned to the Economic and Social Council, as in the original United States draft, with mention also of cooperation on the part of the appropriate intergovernmental specialized agencies. It was decided that the information exchanged on domestic employment problems, trends and policies should at least include "as far as possible information relating to national income, demand, and the balance of payments". Arrangements should furthermore be made to consult "with a view to concerted action on the part of governments and intergovernmental specialized agencies in the field of employment policies".

(4) It was agreed that the maintenance of effective demand and employment must depend primarily on measures that, although they may involve cooperation or parallel action on the part of various countries, are nevertheless of a domestic rather than an international character. The Committee felt, however, that the possibilities of international action in support of the same objectives should not be overlooked. A separate Draft Resolution on International Action Relating to Employment was therefore prepared, requesting the Economic and Social Council "to undertake at an early date, in consultation with the appropriate intergovernmental specialized agencies, special studies of the form which such international action might take". It was suggested that the Council, in addition to investigating the effects on employment and production of a lowering of trade barriers, should include in its consideration measures relating to timing of capital expenditures and credit conditions, to stabilization of the incomes of primary producers, and to the support in periods of world deflationary pressure of the balance of payments position of countries pursing domestic policies for full employment.

(5) The final issue dealt with by Committee I concerned with form in which the agreement on employment should ultimately appear. The fact that employment functions were to be centered in the Economic and Social Council, and that consequently no separate commission to handle such functions was contemplated for the International Trade Organization, raised a question whether the employment provisions should not be embodied in some instrument partly or wholly separate from the Organization's Charter. On the other hand, the important connections between employment and trade, and particularly the difficulty that countries might have in assuming international commitments in the one field unless such commitments were associated with obligations binding all signatories in the other field as well, made it appear desirable to link these agreements together as closely as possible. It was therefore decided that in all probability it would be most appropriate to include the employment undertakings as a chapter in the Charter of the International Trade Organization.

B. COMMITTEE II: GENERAL COMMERCIAL POLICY

This Committee probably had the largest and most difficult task of any of the main committees. Nevertheless the area of agreement reached was impressively large. Texts were agreed to for articles covering more than half of the subject matter of the chapter. These agreed articles covered many of the most important subjects of the chapter, such as most-favored-nation treatment, reduction of tariffs and elimination of preferences, quantitative restrictions and exchange control, subsidies, and certain aspects of state-trading operations.

In the case of certain other proposed provisions of the chapter, lack of time and the complexity of the subject matter made it advisable for the committee to

limit its work to a thorough exchange of views, leaving the task of reconciling any differences and of preparing texts of draft articles to an Interim Drafting Committee and to the Second Meeting of the Preparatory Committee in the spring of 1947. Little or no time was given to certain other proposed articles, since it was generally agreed that they could be dealt with more effectively at a later stage.

The commercial policy chapter of the U. S. Draft Charter was used as a basis for discussion. After preliminary discussion in the full Committee, the various articles were referred to sub-committees [1] which continued the discussions and, in the case of more than half the articles, proceeded to redraft them in the light of the views expressed. The reports of the sub-committees, together with the revised texts of articles, were then submitted to the full committee, for further discussion, modification, and adoption.

1. *General Most-Favored-Nation Treatment.* The Committee was in agreement with the principles: (a) that members of the International Trade Organization should grant each other general unconditional most-favored-nation treatment in respect of all customs matters, and (b) that certain preferences should be excepted from the operation of the most-favored-nation clause, pending their elimination by negotiation. The draft article on most-favored-nation treatment proposed by the United States had provided for a temporary exception for preferences in effect in either 1939 or 1946, whichever date resulted in the lower preferences; preferences thus excepted had also been limited roughly to Imperial and Cuban-American preferences. The Committee agreed that the preferences to be excepted from the operation of the most-favored-nation clause should be those which remained after the negotiations contemplated in the provisions of the Charter relating to the reduction of tariffs and elimination of preferences. The Committee agreed that "the awarding of governmental contracts for public works" and "purchase of supplies for governmental use" should not be included within the scope of the most-favored-nation clause, as had been proposed by the United States. It was felt that the former was more closely related to the treatment of foreign nationals and corporations than to the treatment of trade in goods and should therefore be the subject of future agreements developed under the auspices of the International Trade Organization. The latter subject is covered in the revised state-trading provisions of the Charter.

2. *General Commercial Provisions (Except Most-Favored-Nation Treatment and General Exceptions).* The technical Sub-Committee discussed the general subject matter covered in articles of the U. S. Draft Charter on national treatment on internal taxation and regulation; freedom of transit; antidumping and countervailing duties; tariff valuation; customs formalities; marks of origin; publication and administration of trade regulations—advance notice of restrictive regulations; information, statistics and trade terminology; boycotts; and general exceptions to the General Commercial Policy Chapter.

A substantial degree of agreement was reached on questions of the principles underlying those provisions. However, because of national variations in the practice of detailed administration there were numerous differences of opinion, and a number of reservations were made. No efforts were made to reach agreement on specific texts of draft articles. The report of the sub-committee, summarizing the views of the various delegations, was adopted as a working document and referred to the Interim Drafting Committee, which will meet in New York beginning in January of 1947.

3. *Reduction of Tariffs and Elimination of Preferences.* The Committee was in general agreement with the basic principles that members of the International Trade Organization should enter into reciprocal and mutually advantageous negotiations with one another directed to the substantial reduction of import and export duties and to the elimination of import tariff preferences; that such negotiations should proceed in accordance with certain rules; and that members which unjustifiably failed to fulfill their obligations regarding tariffs and preferences should not be entitled to receive the benefits resulting from the fulfilment of these obligations by other members.

The Committee agreed that the tariff and preference negotiations should be conducted in accordance with the following rules, the first two of which had been included in the U. S. Draft Charter.

(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 of

[1] See pages 9 and 10 of this report.

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-favored-nation import tariffs shall operate automatically to reduce or eliminate margins of preference.

(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.

With respect to rule (b) above, the United States had proposed that July 1, 1939 would be used as a base date in determining the preferential margins to be reduced or eliminated. Since it was not possible to choose a single base date which would be satisfactory to all concerned, the Committee suggested (in a memorandum setting forth procedures for tariff negotiations) that each member of the Preparatory Committee concerned should inform the Secretariat of the United Nations as to the date which it proposes to use as a base date in negotiations with respect to preferences.

4. *Quantitative Restrictions and Exchange Control.* (i) General Elimination of Quantitative Restrictions: There was wide agreement with the United States proposal for a general rule against the use of import and export restrictions and prohibitions, the rule being subject to exceptions for the use of restrictions in specified circumstances and under specified conditions.

The Committee agreed that, in addition to the temporary exceptions proposed by the United States, there should be exceptions covering the cases of restrictions which are essential to the maintenance of war-time price control by a country undergoing shortages subsequent to the war and to the orderly liquidation of uneconomic war industries. All of these temporary measures would have to be removed by the middle of 1949, but this period could be extended for particular products by the International Trade Organization.

The United States suggested that there should be an exception permitting restrictions on imports of agricultural products if such restrictions are necessary to the enforcement of governmental measures which (a) restrict the quantities of the like domestic product permitted to be marketed or produced, or (b) operate to remove a temporary surplus of a like domestic product by making it available to certain groups of domestic consumers, free of charge or at lower than current market prices. The Committee agreed that the Charter should contain such an exception and that it should be broadened to cover fishery products, as well as agricultural.

(ii) Restrictions to Safeguard the Balance of Payments: The most important exception to the general prohibition against quantitative restrictions relates to the problem of countries in balance of payments difficulties. The draft provisions prepared by the Committee maintain the essence of the American position: that countries with serious balance of payments difficulties should be permitted to use quantitative restrictions, subject to closely defined rules and adequate checks.

Under the draft provisions formulated by the Committee the test for determining whether a member may use restrictions for balance of payments purposes is the member's need: (1) to stop or to forestall the imminent threat of a serious decline in the level of monetary reserves, or (2) in the case of a member with very low monetary reserves, to achieve a reasonable rate of increase in its reserves. Under this provision, a member may also select imports for restriction on the grounds of essentiality, but it shall avoid all unnecessary damage to the commercial interests of other members and it shall not carry such restrictions to the point at which it involves the complete exclusion of imports of any class of goods.

A member considering the imposition of new restrictions is required to 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. A member maintaining or intensifying existing restrictions may also be required to consult with the Organization at any time with regard to alternative methods of meeting its balance of payments difficulties. The International Monetary Fund is to be invited to participate in all such consultations.

Any member may complain that another member is employing quantitative restrictions in a manner inconsistent with the provisions of the Charter or unnecessarily damaging to its trade. The Organization will then consider the complaint, in consultation with the International Monetary Fund, and if it is found to be justified, may recommend the withdrawal or modification of the restrictions in question. If the offending member does not comply with its recommendation,

the Organization may then release other members ,in whole or in part, from their obligations toward that member, permitting them, for instance, to withhold tariff concessions which they have made.

In order to avoid the imposition of such a penalty, a member may request the Organization to give prior approval to restrictions which it desires to maintain or to impose or to a statement of the circumstances under which such restrictions may be imposed. The Organization, after consulting the International Monetary Fund, may grant such approval, specifying the general extent, degree, and duration of the restrictions permitted. Thereafter, no other member may sucessfully challenge the legitimacy of the restrictions falling within the scope of the approval, but a member may still seek redress for unnecessary stringency in their application to particular products.

Members are required to relax their quantitative restrictions as the difficulties which justified their imposition are improved and to eliminate them entirely when such difficulties disappear. Within two years of its institution, the Organization is required to call into question all restrictions then in use. And finally, whenever the employment of quantitative controls, under the foregoing provisions, is so persistent and widespread as to indicate the existence of general disequilibrium, the Organization, in collaboration with the International Monetary Fund, is directed to initiate discussions to consider whether other measures might not be taken, either by those countries whose balances of payments are under pressure or by those countries whose balances of payments are tending to be exceptionally favorable, or by any appropriate intergovernmental agency or agencies, to remove the underlying causes of the disequilibrium.

(iii) Administration of Quantitative Restrictions: In those cases in which the use of quantitative restrictions is permitted, there is a general rule which prohibits discrimination in their administration. The methods of applying this rule, in the order of their desirability, are listed as follows: (1) avoidance of allocation among sources of supply either by announcing global quotas or by issuing licenses unrestricted as to source, or (2) announcement of allocations established on the basis of commercial principles either through agreement among exporting countries, or if this is not practicable, by reference to the share supplied in a previous representative period, subject to consultation at the request of the Organization or any of its members. It is further provided that members thus restricting imports shall supply adequate information concerning the administration of their controls.

Exceptions to this general rule permit the discriminatory administration of quantitative restrictions for the following specific purposes: (1) to enable members, until the end of 1951, to assist countries whose economies have been disrupted by war, (2) to enable them to conform to the provisions of intergovernmental commodity agreements, (3) to permit them to use import quotas, insofar as the International Monetary Fund permits them to use exchange controls, to ration scarce currencies, (4) to enable a group of territories with a common quota in the Fund to protect their common monetary reserves, (5) to enable members so to control their exports as to obtain convertible rather than inconvertible currencies, and (6) to enable them to use inconvertible currencies to pay for imports, where this would involve an addition to the volume of imports that would otherwise obtain and where the discrimination either would parallel exchange controls permissible under the Articles of Agreement of the Fund or would have the prior approval both of the Fund and of the International Trade Organization. Provision is made for the possible elimination of this final exception when general convertibility of currencies has been restored or, at least, by the end of 1951.

If any of these restrictions is applied in a manner which is inconsistent with the exceptions provided or which discriminates unnecessarily against the trade of another member, and if the use of such restrictions has not been previously approved, the Organization, after consultation with the Fund, may direct the offending member to modify or remove the discrimination within sixty days.

(iv) Exchange Control: Since quantitative restrictions and exchange controls may be employed alternatively to affect the flow of trade, it is important that the rules that govern these two devices should be laid down and administered with such consistency that it will be impossible, by resorting to one of these devices, to escape from the rules that govern the other. Accordingly, the London draft provides that members "will not seek by exchange action to frustrate the purpose of this Charter and that they will not seek by trade action to frustrate the purposes of the Articles of Agreement of the International Monetary Fund." The Committee, moreover, took the view that every member of the International

Trade Organization should be a member of the Fund or, failing this, that a non-member of the Fund should be required to enter into a special exchange agreement with the International Trade Organization and that this agreement should be established and administered in collaboration with the Fund.

The present draft on quantitative restrictions and exchange control is a complete revision of the American text. It preserves the general approach and the essential principles of the original proposals and strengthens them in many ways. It eliminates the transition period provided in the U. S. Draft and brings the balance of payments test into play immediately upon the establishment of the Organization. It affords greater flexibility in the exceptions permitted to the rule of non-discrimination. But, at the same time, it provides more adequate safeguards and more effective supervision through the collaboration of the International Monetary Fund and the International Trade Organization. On balance, it represents a distinct improvement over the previous draft.

5. *Subsidies.* The subsidy provisions agreed to by the Committee are essentially the same as those included in the U. S. Draft Charter. Direct or "domestic" subsidies would not be seriously limited, but export subsidies, which are more likely to distort trade, would be generally eliminated. Modification of subsidies will be gradual in cases where such modification requires substantial economic and social adjustment in the affected member countries.

The main difference between the provisions agreed to by the Committee and those of the U. S. Draft Charter is that the International Trade Organization will be authorized under the former to determine that certain two-price systems do not constitute export subsidies if they are part of a domestic stabilization scheme that sometimes result in domestic prices below world price levels and if they do not unduly stimulate exports or damage the interests of other members.

6. *State Trading.* The Committee agreed with the main lines of the provisions of the U. S. Draft Charter on nondiscriminatory administration of state-trading enterprises. The rule of non-discrimination, as applied to a state-trading enterprise, means that in its purchases or sales such enterprises will be influenced solely by commercial considerations such as price, quality, market ability, transportation, etc.

The requirement in the U. S. Draft Charter that members furnish specific and detailed information relative to the operation of their state-trading enterprises was modified by the Committee, since it was felt that information required with respect to state-enterprises should not be greater than that required with respect to a private enterprise under similar conditions.

There was considerable discussion of the type of provision which should be included to cover governmental purchases of commodities not for re-sale. It was agreed that in making such purchases member governments should accord "fair and equitable treatment" to the commerce of other members. In the U. S. Draft Charter, such purchases would have come within the scope of the most-favored-nation clause.

Under the provisions of the U. S. Draft Charter, members having state monopolies for the importation or exportation of individual products would be required to negotiate with other members for the reduction of the price margins used by such monopolies to protect their domestic producers. This was accepted by the Committee. In redrafting the provisions certain minor changes were made to provide a more accurate basis for determination of negotiable margins.

Because of the absence of the Soviet Union from the first session of the Preparatory Committee, it was agreed, at the suggestion of the United States, to postpone detailed consideration of suggested provisions relating to the expansion of trade by countries having complete monopolies of foreign trade.

7. *Emergency Provisions—Consultation—Nullification and Impairment.* If imports of a particular product into a member country caused or threatened to cause serious injury to domestic producers, the provisions of the U. S. Draft Charter would have required a member (a) to give written notice to the Organization, and (b) to consult with the Organization and with members whose trade would be affected, before it could withdraw or modify obligations under the trade barrier chapter (including tariff concessions) affecting that product.

The Committee agreed that in critical and exceptional circumstances a member should be permitted to modify or withdraw concessions provisionally without prior consultation with other interested members, provided that consultation takes place immediately thereafter.

It was agreed that members should be permitted under special circumstances to withdraw or modify concessions with respect to preferences as well as concessions with respect to tariffs and other obligations. It was also agreed that,

as a general rule, any counter-action against a member withdrawing or modifying a concession should not be disproportionate to the original action.

The Committee was in agreement with the United States proposal that members of the International Trade Organization should stand ready to consult with one another regarding any matter affecting the operation of the provisions of the commercial policy chapter of the Charter.

A draft article, agreed to by the Committee, provides that any member should be entitled to request the Organization to set aside any obligations under the commercial policy chapter, and that the Organization should be authorized to set aside such obligations in the event that *any situation should arise*, whether or not caused by an action of another member, which would nullify or impair *any object of the Charter*. This latter provision is somewhat broader than what had been proposed in the U. S. Draft Charter which would have limited the International Trade Organization's right to set aside a member's obligations to cases where another member had taken action nullifying or impairing an object of the commercial policy chapter.

8. *Territorial Application of the Commercial Policy Provisions—Customs Unions—Frontier Traffic.* The Committee agreed with the United States proposals that the trade barrier provisions of the Charter should apply to each of the customs territories under the jurisdiction of the member countries and that an appropriate exception should be made for advantages accorded to facilitate frontier traffic.

The U. S. Draft Charter had provided that the General Commercial Policy Chapter should not prevent "the union for customs purposes of any customs territory and any other customs territory." The Committee agreed that this exception should extend to the *formation* of a customs union, thus permitting measures representing in fact a transitional stage toward a genuine customs union. A new paragraph recognizes that the Organization may, in exceptional circumstances, approve new preferential arrangements (e. g., regional preferences) under a rule requiring a two-thirds majority vote.

9. *Memorandum on Multilateral Trade Agreement Negotiations.* In the light of the decision of the Preparatory Committee to recommend to the governments concerned that the Committee sponsor tariff and preference negotiations among its members in April of 1947, a memorandum was prepared, setting forth procedures and rules for these negotiations and for fitting the results of the negotiations into the framework of the International Trade Organization after the adoption of the Charter.

The memorandum recommends that the negotiations should be conducted on a selective, product-by-product basis, thus permitting full consideration of the circumstances surrounding each product on which a concession may be considered.

Three general rules, listed in the section of this report on reduction of tariffs and elimination of preferences, will be followed in the negotiations.

It was suggested that each member of the Preparatory Committee concerned should inform the Secretariat of the United Nations as to the date that it proposes to use as the base date for negotiations with respect to preferences.

The memorandum stresses that it is important that members do not effect any new tariff measures, which would increase the protective incidence of their tariffs, prior to the negotiations, since such action would tend to prejudice the success of the negotiations.

The memorandum expresses the agreement of the Preparatory Committee that a country would be expected to consider the granting of concessions only on products of which another member of the Preparatory Committee, or the members of the Committee taken as a whole, supply a principal part.

The memorandum proposes that the members of the Preparatory Committee should enter into an Agreement on Tariffs and Trade, which will include the tariff schedules as well as general provisions drawn from the Charter, including those considered essential to safeguard the value of the tariff concessions (for example, the provisions relating to quantitative restrictions). This Agreement would be signed and made public at the close of the tariff negotiations and brought into force as soon thereafter as possible. The tariff concessions granted in the Agreement would be granted to countries not members of the Preparatory Committee on a provisional basis, pending consideration by the International Conference on Trade and Employment of the question whether benefits granted under the Charter should be extended to countries which do not assume the obligations of membership in the International Trade Organization.

Since the existence of an international body would be necessary for the successful operation of certain provisions of the Agreement, it is proposed that the countries adhering to the Agreement should create a provisional agency which would function until the establishment of the International Trade Organization.

The signatories of the Agreement would be the original members of the Interim Tariff Committee, provided for in the Charter, to be set up within the International Trade Organization after the Organization has been established. The Interim Tariff Committee would have the functions of determining whether (with respect to any negotiations subsequent to those culminating in the Agreement described above) any member of the Organization has lived up to its obligations regarding tariff negotiations and of authorizing complaining members to withhold tariff benefits from offending members.

C. COMMITTEE III: RESTRICTIVE BUSINESS PRACTICES

1. *Introduction.* At the opening meeting of Committee III, the spokesman for the United States advanced the following reasons for the inclusion of Chapter V of the U. S. Draft Charter on restrictive business practices.

First, it was pointed out that restrictive business practices are detrimental to the expansion of trade and other objectives of the Organization. They tend to establish prices higher than those that would prevail under conditions of competition, thus resulting in a lower total volume of production, less consumption and less employment. Moreover, monopolistic practices and arrangements frequently hinder the adaptability of business enterprises to new situations and result in lower efficiency of production and few opportunities for new investment. Such practices may also result in an artificially high level of profits with the result that diminished shares of national income flow to workers and producers of raw materials. Finally, restrictive arrangements are capable of impeding the industrialization of undeveloped areas by increasing the price of equipment and preventing the development of new competitive industries through such practices as dumping, boycotting or interposing obstacles to access to technology and patent rights.

Second, it was emphasized that Chapter V of the U. S. Draft Charter is an essential complement to other chapters in the Charter, particularly those relating to commercial policy and intergovernmental commodity agreements. Consequently, if the chapter were not included or if its provisions were too loosely drawn, the obligations of members under these other chapters would be impaired by business arrangements for the purpose of carrying out various restrictive practices. For example, the reduction of governmental barriers to international trade and the elimination of governmentally imposed quotas would be rendered much less effective, and perhaps useless, if commercial enterprises in the member countries were at liberty to interpose restrictions on trade. Likewise, the obligations of member governments to enter into intergovernmental commodity agreements only under the principles and procedures of the commodity chapter might be seriously impaired in the absence of international agreement to prevent restrictive business practices.

It became evident from the initial statements of other delegations that there existed certain differences of view both as to general approach and as to matters of detail. Such differences were attributable to wide disparities among the participating countries with respect to legal institutions, systems of economic organization, stages of industrial development and structure of external trade. The United States approach as developed in Chapter V of the U. S. Draft Charter called for an international project requiring national action on the part of members to support a policy which most governments, with the exception of Canada and the United States, had not previously followed. Some countries, although having antimonopoly legislation or constitutional provisions to this effect, had not actively pursued their administration; others, as in the case of most European industrial countries, had previously followed a policy of permitting and in some cases facilitating participation in international business arrangements of a restrictive character. Nevertheless, despite these dissimilarities of historical background and despite important differences in the structure of industry and trade in their respective countries, all delegates were agreed on the importance of the problem facing Committee III and all expressed a resolute willingness to clarify and discuss the issues in the hope of arriving at a generally agreed solution. There was unanimous support for the adoption of the headings of the proposed U. S. Draft Charter as the basis for the discussions of this group.

Chapter VI of the Redrafted Charter on Restrictive Business Practices, as finally recommended by Committee III and agreed upon by the Preparatory Committee, incorporates the fundamental features of Chapter V of the U. S. Draft Charter, which suggested the establishment of international machinery to facilitate the elimination and prevention of restrictive business practices in international trade that become the subject of complaints by member governments or their nationals. This machinery suggested by the U. S. Draft Charter included (1) a body of agreed principles of action; (2) agreed procedures for carrying out these principles; and (3) an International Business Practices Commission to assist in matters of administration. In the course of discussions within Committee III, however, it became clear that on certain matters of detail, the suggestions advanced in the U. S. Draft Charter had not won the support of all nations present at the Conference, and, accordingly, various modifications to be explained in Section 3, below, were tentatively agreed to.

2. *General Outline of Chapter VI of the Redrafted Charter.* Chapter VI enunciates first a general policy toward restrictive business practices. In accordance with this policy members agree to take appropriate measures to prevent within their jurisdiction business practices which restrain competition, limit access to markets or foster monopolistic control, whenever such practices have harmful effects on any of the purposes of the Organization. Because of their significance in this context, the expansion of production and trade and the maintenance of high levels of real income are mentioned in particular. A list of specific practices is enumerated, comprising those which in the past have been of major significance in the limitation or restriction of trade, and it is provided that these practices, whether engaged in or made effective by an international "ring" or by a single firm, shall be subject to investigation by the International Trade Organization and member governments in accordance with prescribed procedures.

The procedural machinery operates in the following manner: Upon request from any member country, the International Trade Organization is empowered to arrange for a consultative conference with any other member or members with a view to the elimination of any particular instances of restrictive practices believed to be detrimental to the objectives of the Organization. Alternatively, or as a further resort, any member may submit a complaint that such an instance exists, whereupon the International Trade Organization, after a preliminary screening of the complaint to ensure its *prima facie* merits, will investigate the situation. This investigation includes the collection of further information from member governments and, if appropriate, oral hearings at which the representatives of member governments and private parties under their jurisdiction may be heard. The International Trade Organization will then make a finding as to whether the practices in question have had, or are about to have, harmful effects on the objectives of the Organization. If such effects are found, the International Trade Organization shall notify all member governments, call upon them to take appropriate measures to prevent the continuance or recurrence of the practices, and at its discretion suggest appropriate remedial measures. The International Trade Organization shall also make public a complete record of the case and request members from time to time to give information as to their respective actions in the matter.

It is understood throughout the present chapter that although members agree to adopt legislation or other measures appropriate to the observance of their obligations, no member is bound to any given formula; and each is expected to take action in accordance with its particular system of law and economic organization. Moreover, no government is bound by the terms of the new chapter to accept in advance the findings or recommendations of the International Trade Organization; however, each member agrees to give fullest consideration to such findings or recommendations in the light of its general obligations under the Charter. It is specifically provided that no member shall be precluded from enforcing its national laws directed to the prevention of monopoly or restraint of trade, regardless of any act or failure to act on the part of the Organization.

Finally, in order to carry out this plan a Commission on Business Practices is established under the International Trade Organization to assist and advise the Executive Board.

3. *Modifications of the Original U. S. Draft Charter.* It will be noted that in certain matters the new draft differs from the corresponding chapter suggested by the United States. The following comments point out the major differences and explain briefly the basis of the changes that have been made.

(1) The U. S. Draft suggested (Article 34, paragraph 1) that members agree to take appropriate measures to prevent business practices among commercial enterprises which retain competition, restrict access to markets or foster monop-

olistic control in international trade, and which *thus* have the effect of frustrating the purposes of the Organization. Although some countries found this formulation acceptable, others took the view that it was possible that certain restrictive elements might be present in an arrangement among commercial enterprises without being unreasonable and detrimental, *per se*, to the expansion of international trade and other objectives of the Organization. All delegates agreed nevertheless that business practices should be prevented *whenever* they were found to have harmful effects, and the present text incorporates this wording in Article 39, paragraph 1 of the Redrafted Charter.

(2) It was the consensus of members of Committee III that Article 34 of the U. S. Draft was not sufficiently explicit in its statement of the devices or arrangements which would be subject to action by members and the Organization in the event that they resulted in restrictive business practices which might become the subject of complaint by other member countries or their nationals. Paragraph 2 of Article 39 was accordingly inserted to make it clear that various combinations of firms as well as the single enterprise were included within the scope of the Chapter, with the limitation that such a group of firms or single firm must possess effective control of international trade in one or more products. It was felt to be apparent that, in the absence of effective control, the parties in question would not have the power to influence market conditions with respect to such matters as prices, quotas, territories, etc., and it was believed essential to include this provision in order to avoid numerous and unwarranted complaints that might interfere with the work of the Organization.

(3) It was proposed in the U. S. Draft Charter (Article 34, paragraph 2) that an enumerated list of specific practices should be presumed, unless shown to the contrary in any particular case, to be detrimental to the objectives of the Organization and, therefore, subject to remedial measures by each member government concerned. This formulation did not, however, meet with general agreement and in devising an acceptable draft of this article it was decided to eliminate the particular feature as to presumption of guilt. It was felt that each complaint must stand on its own merits; that it would be both unfair and incompatible with recognized principles of civil law to incorporate any *a priori* condemnation; that on occasion the International Trade Organization might be placed in embarrassing situations; and that reliance must be placed on the establishment over a period of time of a body of standards growing out of specific findings of the International Trade Organization.

(4) According to the United States Draft (Article 34, paragraph 2. b, and Article 35, paragraph 2) complaints could be received and investigations conducted by the International Trade Organization only when it was deemed that business practices had actually had harmful effects. Various members of the Committee suggested that investigation might also be appropriate in certain cases in which a cartel arrangement had been only recently formed and had as yet no history of operation; that appropriate action should also be allowed when such an arrangement was deemed *likely* to have harmful effects. This change was generally acceptable to the members of the Committee and is incorporated in the redrafted chapter.

(5) The United States Draft (Article 34, paragraph 2, and Article 37, paragraph 1. a) stated that the business practices of governmental as well as private commercial enterprises would fall within the scope of the chapter. Reservations were expressed by several governments, particularly on the ground that the activities of governmental enterprises were covered by the provisions of the Commercial Policy Chapter relating in general to state-trading. The present draft of the Chapter on Restrictive Business Practices (Article 39, paragraph 2) reconciles this difference of view by providing that the practices of international combinations, agreements or other arrangements among private commercial enterprises, public commercial enterprises, either or both, shall be subject to the provisions of the Chapter on Restrictive Business Practices. However, as regards the activities of a single commercial enterprise not acting in concert with other firms, the terms of that chapter apply only to private entities. It was considered by the Committee that the activities of the individual governmental enterprises were adequately covered by Section F of the Chapter on Commercial Policy.

(6) The United States Draft suggested (Article 35, paragraph 2) that complaints could be made by persons or business entities, or organizations representing them, provided only that if the member having jurisdiction and established procedures for filing, the complainants must have conformed to such procedures. Certain members, however, were of the opinion that only member gov-

ernments, not persons or enterprises, should be permitted to launch complaints involving other member governments. It was finally agreed that those member governments having jurisdiction over the complainants could not escape responsibility for such complaints. Accordingly, it was the consensus of the Committee that if complaints were filed by private persons or bodies, they must have the approval of the appropriate member. This change is incorporated in the present text (Article 40, paragraph b).

(7) The United States Draft (Article 37, paragraph 5) obligated members to *take action*, after recommendation by the Organization, to terminate and prevent the recurrence of a particular business practice which the Organization has found to have harmful effects on its objectives. Certain members of Committee III were of the view that this commitment was not sufficiently explicit and might, moreover, impose obligations on them which would not be commensurate with those imposed upon other governments whose actions were subject to "due process of law". For example, before even a *prima facie* case could be made out by the United States Government against an American firm allegedly participating in restrictive business practices, it would be necessary for the Attorney General to submit evidence to a Grand Jury for its decision. Neither the Grand Jury nor the courts could be bound to accept the findings of the International Trade Organization as to the effect of such practices upon American commerce. By contrast, certain foreign governments had direct powers of intervention in industry and considered that the phrase "take action" might be interpreted as binding them to carry out any finding or recommendation made by the International Trade Organization. This point had to be clarified and the possibility of lopsided international obligations under this chapter dispelled. Accordingly, it was agreed that each government shall take the fullest account of the Organization's findings, requests and recommendations, in the light of its obligations under Article 39 of the Redrafted Charter in considering the action which it should take in accordance with its own laws to prevent the continuance or recurrence of any practices which the Organization finds to have had harmful effects on its objectives.

D. COMMITTEE IV. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

Committee IV prepared a complete agreed Chapter on Intergovernmental Commodity Arrangements, except for a few points left for consideration by the Interim Drafting Committee meeting in New York. The chapter sets forth the special difficulties and objectives of commodity policy, a procedure for intergovernmental commodity consultation and agreement, and principles governing the operation of particular commodity arrangements.

The Preparatory Committee adopted a recommendation that pending the establishment of the International Trade Organization the redrafted Chapter on Intergovernmental Commodity Arrangements be used as a guide for intergovernmental consultation and action on commodity problems and that on Interim Coordinating Committee for International Commodity Arrangements be set up by the United Nations.

1. *Need for Commodity Arrangements Appreciated.* The basis for this chapter lies in the fact that the adjustment of the production of some primary commodities to the demand for those commodities present special difficulties different in character from those encountered in the adjustment of industrial production to demand. Due to relative inelasticity of supply and demand for some agricultural primary products, burdensome surpluses are created and prices remain at distress levels for long periods. In some mineral primary products, specialized producing communities are subject to mass unemployment without alternative occupation. Under these circumstances, governments almost everywhere intervene in the production and distribution process. Such intervention has, in the past, involved economic warfare and the restriction and distortion of world trade and production. The approach calculated to deal with these problems, consistently with a high level of trade and employment, in cases where the commodity is an internationally traded one, is in the first instance through intergovernmental agreement and the coordination of program rather than solely through the reduction of barriers to international trade and withdrawal of associated government intervention.

This was virtually unanimously appreciated in Committee IV almost from the outset of its discussions. Most of the delegations were strongly of the opinion that a positive program of intergovernmental commodity agreements was an essential feature of a successful international trade organization.

2. *Committee IV Procedure.* The Committee devoted seven meetings to a general interchange of views among delegations on commodity problems and policies and on the appropriate international technique and organizations for dealing with them. The Committee had the benefit of information made available by the International Sugar Council, the International Tea Committee, the Rubber Study Group, the International Tin Committee, and the Food and Agriculture Organization. It received a statement concernig work of the Food and Agriculture Organization related to the commodity field. A special sub-committee obtained the views of the International Chamber of Commerce on the matter.

The detailed drafting of a text for the consideration of the Committee was entrusted to a sub-committee consisting of the officers of the Committee and delegates from Australia, Canada, Cuba, France, The Netherlands, the United Kingdom, and the United States. The sub-committee was instructed to use Chapter VI of the U. S. Draft Charter as a basis of discussion and to consider both the views expressed in the Committee's discussions and comments and proposals submitted in writing by various delegations. The sub-committee held nine meetings. It achieved a substantial integration of the various views and proposals. Committee IV then required only two final meetings to complete its deliberations.

3. *Principles of Commodity Arrangements.* The Committee agreed that to avoid abuse of the commodity arrangement device and to make arrangements conform with the trade-expansion purposes of the Organization, all intergovernmental commodity arrangements should be governed by principles which may be summarized as follows:

a. They should give an equal number of votes to importing countries and exporting countries, each group taken as a whole and each participating in adequate number, and should also give an appropriate vote to other interested countries.

b. They should be negotiated and operated with full publicity.

c. They should be open initially on equally favorable terms of any government member of the International Trade Organization and any invited non-member government.

d. They should expand world consumption.

Of these general principles, greatest emphasis was placed on equal voting by importers and exporters. One country, however, dissented from a rigid formulation of this principle, insisting that the requirement be merely that votes be proportioned "equitably" between the two groups of countries. The Committee adhered to the rigid formulation, however. It was felt that this principle would assure reasonableness in decisions taken, since either group would have to attract some votes from the other in order to obtain a majority. This would be particularly true, if as is the case in many arrangements, substantive decisions require a two-thirds, or other special, majority of the votes.

The Committee agreed that observance of certain principles in addition to those stated above should be required of those arrangements that involved the regulation of production, trade or prices (such arrangements being defined as regulatory agreements for the purposes of the chapter). The additional principles applicable to regulatory agreements may be summarized as follows:

a. They should assure adequate supplies of the commodity for world demand at reasonable prices.

b. They should afford increasing opportunities for satisfying world demand from the most economic sources of supply.

c. The participating countries should adopt a program of economic adjustment to insure progress toward solution of the commodity problem that makes the agreement necessary.

d. To be entered upon, a new regulatory agreement should be recommended by a commodity conference.

e. Regulatory agreements should have an initial duration of not more than five years, subject to renewal.

f. Members of the International Trade Organization not participating in the agreement should be given treatment equitable with that accorded to any participating country.

The last principle is designed to make it unnecessary for each member country to join an agreement merely to protect its rights. If countries with only a small absolute interest in a commodity participate in the deliberation of a regulatory body for trade in the commodity, they tend to increase the difficulty of reaching decisions even though their vote may be negligible.

A more important limitation on the conclusion of regulatory agreements than the foregoing principles, however, is the requirement that such agreements be employed only when:

a. There is (or is expected) a burdensome surplus that because of the inelasticities in the commodity's supply and demand cannot be corrected by market forces rapidly enough to prevent widespread hardship to producers.

b. There is (or is expected) widespread unemployment in the producing industry in areas that do not afford alternative employment opportunities, or

c. The Organization makes a special exception for a non-primary product, as for example, a synthetic product competing with a primary product.

In connection with conditions a and b, the question of who would determine that the conditions prevailed, was unintentionally left ambiguous in the chapter. It was intended that this would be a determination of the Organization arrived at by consultation among the members having an important interest in the trade in the product concerned. It is anticipated that the interim Drafting Committee will clarify this point.

4. *Different Types of Arrangements.* The Committee gave careful consideration to the questions of price stabilization and agreed that, as concerned fluctuations around an equilibrium level, stabilization was an appropriate objective of regulatory agreements. There was some debate as to the possibility that such stabilization would be needed in cases where the agreed conditions justifying a regulatory agreement would not be found. The Committee agreed, however, that such cases were unlikely, since commodities not the subject of national government intervention either because of tending to burdensome surplus or to concentrated unemployment would not be likely to suffer extreme price fluctuation that could not be dealt with through market processes.

The Committee agreed to except from the provisions of the chapter intergovernmental arrangements relating solely to the equitable distribution of commodities in short supply, since it was recognized that such commodities would not necessarily meet the conditions stipulated in the chapter. Moreover, it was felt that conditions of global short supply would be of infrequent occurrence once wartime shortages had disappeared. It was pointed out in the discussions, however, that agreements concluded under the chapter might appropriately provide for equitable distribution during a temporary period of short supply.

The Committee was not satisfied that it had dealt consistently with the problem of conservation agreements, such as international fisheries conventions. It recognized the maintenance, development, and protection of exhaustible national recources as an objective of commodity arrangements. The discussion brought out that such arrangements would in many cases have to regulate production or trade in order to achieve their object. Yet few if any of the commodities involved would meet the conditions laid down by the Committee to justify regulatory agreements. The Committee agreed to call this matter to the attention of the Interim Drafting Committee. It was suggested that one solution would be to put conservation agreements with shortage agreements among the arrangements excepted from the chapter, provided they are not used to accomplish results inconsistent with its objectives. Such a provision had been included in the U. S. Draft Charter.

5. *Steps in Arriving at Intergovernmental Arrangements.* The chapter prepared by Committee IV provides for three steps in the procedure for dealing with a commodity for which special difficulties of the type described above exist, or are expected: a Study Group, a Conference, and a Commodity Council.

A Study Group, to investigate the root causes of special difficulties and report the relevant facts promptly, would be set up by the International Trade Organization when a member government substantially interested in the production, consumption, or trade of a commodity considered that such difficulties existed or were expected to arise regarding the commodity, unless the Organization found that there was no *prima facie* basis for the member's view. If the Study Group were to find that special difficulties did in fact exist, it would make recommendations for dealing with them. The Study Group would consist of all member governments substantially interested in the commodity and such interested nonmembers as the Organization invited. It was contemplated in the discussion that the Organization would usually invite the participation of any country having a large share in the trade of the commodity, whether or not it was a member.

An intergovernmental Commodity Conference would discuss measures designed to meet the special difficulties of a particular commodity. A Conference might

be a second step, on the basis of the recommendations of a Study Group. However, should the information presented initially by interested member governments prove to be adequate, a Study Group would therefore be unnecessary and a Commodity Conference would then be the first step. A Conference might be called by the Organization on its own initiative. It was contemplated in the Committee that participation in a Conference, while still confined to interested countries, would be somewhat broader and more complete than that in a Study Group. The product of a Conference, it was anticipated, would frequently be a specific proposal for an intergovernmental commodity arrangement to go into effect upon ratification by a certain group of governments.

No detailed provision was made as to how the third step, the actual establishment of the arrangement, would be taken in general. For regulatory agreements, however, there would be set up a governing body (Commodity Council) composed of representatives of participating countries and non-voting members appointed by the Organization. The Council would appoint a secretariat after consultation with the Organization. The Council would make reports to the Organization periodically and in any special case that the Organization might require.

The Commodity Council would thus bring together the interested parties to work out specific methods of dealing with world production and distribution of a commodity encountering special difficulties. Presumably, the methods would vary from commodity to commodity. The one thing all would have in common would be assurance of exhaustive intergovernmental consultation. The basic hope of the drafters of the Commodity Chapter is that such consultation will lead to reasonable compromise solutions that will prevent resort to techniques of economic warfare such as those which arose from the commodity difficulties of the interwar period.

E. COMMITTEE V: ADMINISTRATION AND ORGANIZATION

Committee V accepted the U. S. Draft Charter as the basis for its discussions, and covered Chapters II and VII of that document. It developed agreed texts on all of the articles contained in these Chapters except those dealing with voting, the composition of the Executive Board, and the specific functions of the Commissions. The questions of voting and composition were fully discussed and referred to the Interim Drafting Committee which is to draw up alternative draft texts in the light of these discussions. The Interim Drafting Committee was also requested to prepare texts covering the functions of the Commissions and the purposes of the Organization (Chapter I of the U. S. Draft) in the light of the work of the other Committees of the Preparatory Committee.

1. *Membership and Functions.* The provisions of the United States Draft concerning membership were accepted with an amendment permitting the admission of new members by the Conference of the International Trade Organization without the prior approval of the Executive Board.

Two significant changes were made in the article on functions of the Organization. First, the authority of the Organization to develop and to obtain general acceptance of conventions and agreements in the field of international commerce was considerably broadened and strengthened. The Committee gave a very broad interpretation to the scope of these agreements and provided that members must either accept them or explain to the Organization within a period of eighteen months the reasons for non-acceptance. Second, the Committee laid particular stress upon the need for cooperation and avoidance of overlapping between the International Trade Organization, and the United Nations, and other specialized agencies. A special clause was added setting up the achievement of economy of effort among the various organizations as a function of the Organization. Committee V left open the question of the functions of the Organization in the field of economic development and industrialization pending the decision of the Economic and Social Council on this matter.

2. *The Conference.* The Committee adopted substantially the provisions of the United States Draft as to the Conference. However, the provision under which the Conference may provide for the possibility of waiver in exceptional circumstances of the obligations of members was extended to cover all obligations assumed under the Charter (and not solely those in the field of commercial policy). This was done as a result of the concern expressed by certain delegations as to the possibility that many of the obligations under the Charter might prove unreasonably onerous, especially during the transitional period. The Committee also suggested that the Conference, in allocating the budget of the Organization should

follow the principles adopted by the United Nations, in the absence of some other agreed arrangements. It was recognized that this question might be affected by the eventual decision in the matter of weighted voting (see next section).

3. *Voting and Executive Board Membership.* No agreed text was arrived at as to the method of voting in the Conference and in the Executive Board. The majority of the delegations were in favor of the principle that each country should have one vote, which is the rule in the General Assembly of the United Nations. They argued that this is the most democratic system; that a small country may be relatively as vitally affected by a decision in the realm of foreign trade as a large country; that the Conference might be the last resort of a small country in serious difficulties in the field of trade, and it should have an equal voice in the discussion of those difficulties; that weighted voting would tend to submerge the interest of the many under-developed countries; that special provisions as to voting are already contained in the Charter to cover special cases (as for example, in the case of commodity agreements when consumer interests are given an equal vote with producer interests); and, finally, that the development of a workable formula acceptable to the large number of nations whose membership is desirable would be nearly impossible. On the other hand, the minority of delegations who did not regard weighted voting with disfavor argued that the interest of different countries in the field of trade varied greatly; that the Organization cannot succeed without the active support of the major trading nations who are a numerical minority among the nations of the world; that it is possible to measure degrees of importance in such a specialized field as that of foreign trade; that there are precedents for this system in the International Fund and Bank; and, finally, that it would be improper to give to a country representing wide colonial territories throughout the world the same vote as a small country confined to narrower regional interests.

As to the related subject of permanent seats on the Executive Board, there was a disposition on the part of a majority of the members to favor some sort of arrangement of this kind, but no general agreement as to its terms. Various factors were advanced, some of which were also mentioned in connection with weighted voting. These included economic importance; political importance; geographical considerations; population and economic potentialities; national income; and the relative importance to any country of its international trade. One suggestion, which gained considerable sympathy, would make the holders of six of fifteen seats eligible for reelection, while the other nine seats would rotate. It was suggested that this would mean in practice that the major trading powers would get special recognition.

The Committee failed, also, to agree to the size of the Board. Some delegations argued for fifteen as a maximum while others wished as many as twenty seats.

4. *The Executive Board.* The United States Draft provisions as to the Board were altered in two significant ways. First, the Board's control over the Commissions was strengthened by the provision that it should supervise their activities rather than merely review them. Second, specific provision was added under which a member of the Organization, not a member of the Board, must be invited to participate in its discussion as to matters of particular and substantial concern to it.

5. *The Commissions.* The Committee devoted a considerable amount of its time to the question of the nature, functions and composition of the Commissions. Many of the delegates feared that they might constitute expert bodies parallel to, and in competition with, the Secretariat, and it was suggested that they should be made subordinate to the Director-General. It was finally agreed that the Commissions should be high-level expert advisory bodies which would consider the problems arising in their respective fields and transmit reports and recommendations directly to the Executive Board for such action as the Board might deem appropriate. It was agreed that the Commissions should be composed of individual experts of the highest possible prestige and ability whose services would probably not be available to the Organization if they were to be members of the Secretariat. It would be the function of the Secretariat to gather and marshal information for the Commissions and to supply all the necessary technical and clerical personnel. The Director-General would always be conversant with their activities through his right (or that of his deputies) to participate in all the Commissions' deliberations and to initiate any proposal for their consideration. In the light of these considerations the Committee agreed that it would not be necessary or desirable to make the Commissions subordinate

to any body other than the Executive Board, made up of the representatives of governments.

Many delegates felt that the Commission members should be invited to serve on a part-time basis so that prominent men in important positions in member countries might be persuaded to act on the Commissions and might at the same time, be able to maintain intimate contact with the problems of their respective countries. While it was agreed that this would be desirable and possible in many cases, it was also felt that in other cases the work of the Commissions would probably constitute a full-time job.

Accordingly, the provisions of the United States Draft were not substantially changed. Conditions of service on the Commissions are to be covered by regulations to be prescribed by the Conference in the light of operating experience. The Committee suggested that the Conference, in so prescribing, should consider the desirability of providing that the Chairman of each Commission should serve permanently so as to assure continuity. It also pointed out the desirability of fair geographical distribution in the selection of members.

6. *The Secretariat.* In this connection, the Committee again stressed the danger of overlapping between the various international bodies in the international economic field and pointed out the necessity of using common services so far as possible.

The authority of the Director-General over the Secretariat was increased by removing special reference to the functions of deputy Directors-General and leaving a maximum of discretion to the Director-General himself. The Committee also incorporated the provision in the United Nations Charter with respect to geographical distribution, but decided against inclusion of any provision confining members of the Secretariat to nationals of member countries.

7. *Miscellaneous Provisions.* The Committee approved, without substantial change, the provisions as to relations with other organizations, legal capacity, privileges and immunities, and payment of contributions. However, as to amendments of the Charter, the Committee was concerned with the status of a minority member which failed to accept a substantial amendment. After considerable discussion, it was decided to follow the precedent set in the Civil Aviation Organization, and provide the Conference with the power to require the withdrawal of such a member if it feels this to be necessary.

In view of the terms of the United States legislation on reciprocal tariff reductions under which the United States may not commit itself to tariff reductions for a period of over three years, the Committee decided that the initial period during which no member can withdraw from the organization (except under special circumstances) should be reduced from five years to three.

In the matter of interpretation of the Charter, the Committee decided to add Chinese and Spanish to English and French as authoritative texts of the Charter. The question of a Russian text was not raised at this session.

As to the settlement of disputes, it was decided that the Charter should cover the settlement of all disputes arising not only out of the interpretation of the Charter, but also out of its operation. In discussing the matter of disputes, the two following questions were raised, among others:

First, the Committee decided that the Executive Board should be specifically enabled, at the outset of a dispute, to refer it to arbitration in cases where the parties consent, and on the understanding that it should be final.

Second, there was a split of opinion as to appeals from the decisions of the Conference to the International Court of Justice. On one hand, some delegations felt that in order to prevent undue delays in reaching final settlements, and for reasons of prestige, the Organization should be able itself to settle finally all disputes arising in its field (except those involving national security), and should be able to deny appeals from its decisions to the International Court. These delegations argued that it should be possible for the Conference to cut off appeals in trivial or nonjusticiable matters. Other delegations argued that the Conference might act on political grounds and that no aggrieved country should be cut off from its right to appeal to the impartial and nonpolitical decision of the Court. These delegations felt that no country would so appeal unless it believed that the matter was of great importance. It was finally agreed that the Conference should establish procedures governing such appeals, and it was suggested that these might include a requirement that an appeal might be denied by a two-thirds vote of the Conference. Several delegations, however, submitted a paper to the Interim Drafting Committee stressing the desirability of unrestricted appeal to the Court, and suggesting the establishment of an Economic Chamber as a part of the structure of the Court.

In connection with the article on entry into force of the Charter, the Committee approved the provision in the United States Draft providing that the Charter might be brought into force by fewer than twenty countries, since it assumed that as a practical matter the countries which took such a step would control a significant part of the world's foreign trade, and since it felt that it was important to provide added assurance that the work of the International Conference on Trade and Employment would not be wasted. Special provisions were also added to cover the overseas territories of members which might have varying degrees of autonomy in matters of trade, and whose status might be expected to change after the Charter has taken effect.

F. JOINT COMMITTEE OF COMMITTEES I AND II: INDUSTRIAL DEVELOPMENT

Article 1 of the U. S. Draft Charter stated that one of the general purposes of the International Trade Organization would be "to encourage and assist the industrial and general economic development of member countries, particularly of those still in the early stages of industrial development". In Article 50, the Organization was given the function of collecting, analyzing, and publishing information, and of consulting with and making recommendations and reports to members on this subject; the Organization was further "to provide . . . such assistance and advice as may be appropriate in connection with specific projects of industrialization or other economic development". Other references to development appeared in Articles 60 and 65; the Executive Board was to provide adequate machinery to review the work of the Organization in this field, while the Commission on Business Practices was "to facilitate intergovernmental arrangements for the international exchange, on a nondiscriminatory basis, of technological information not involving national security". Article 61, without referring specifically to a Development Commission, made provision for the establishment of "such other commissions as may be required".

At the opening of the London Meeting a considerable number of countries emphasized their interest in industrialization and other aspects of economic development, indicated that in their view the provisions in the Draft Charter were inadequate to meet the needs of under-developed countries, and asked that the provisional agenda be modified to allow full discussion of this subject. Because of its close connection with both employment and commercial policy, the matter was referred to Committees I and II for their joint consideration. These Committees in turn established the Joint Committee on Industrial Development, which at the conclusion of its deliberation submitted to the Conference draft articles for a new chapter of the Charter and a draft resolution to be brought to the attention of the Economic and Social Council. The Joint Committee also transmitted a formal request to Committee II to take due account of certain problems relating to industrialization in connection with two of the articles in the Commercial Policy Chapter.

1. *Recognition of the Importance of Economic Development.* The first question considered by the Joint Committee was the manner in which appropriate recognition might be given to industrial and general economic development as one of the basic objectives of the International Trade Organization. It was decided, as noted above, that the importance of the subject warranted expanding the Charter to include a Chapter on Economic Development. The provisions, it was agreed, should be broad enough to apply to all countries (for example, countries already industrialized but engaged in programs of postwar reconstruction, as well as under-developed countries) and to all aspects of development (for example, modernization of agriculture, as well as the introduction of manufacturing industries). In the first article of this new chapter, "Members recognize that the industrial and general economic development of all countries and in particular of those countries whose resources are as yet relatively undeveloped will improve opportunities for employment, enhance the productivity of labor, increase the demand for goods and services, contribute to economic stability, expand international trade, and raise levels of real income, thus strengthening the ties of international understanding and accord".

2. *Positive Aids to Economic Development.* A point on which great stress was laid in the Joint Committee's discussions was that progressive economic development cannot take place without adequate supplies of capital funds, materials, equipment, advanced technology, trained workers, and managerial skill. It was agreed, moreover, that unless capital funds are available it may often be impossible to obtain the various other facilities in question.

Since it was recognized that the relatively undeveloped countries will usually need to look abroad for assistance in obtaining these means or facilities required for their development, the problem as viewed by delegations from those countries was one of securing agreement that such facilities would be obtainable from other countries on as favorable terms as possible. At the same time, it was clear that the interests of the other countries had likewise to be considered. A text was accordingly agreed upon by the Committee which recognized the reciprocal obligations of countries providing and countries receiving assistance. It was stipulated: (a) the members should "impose no unreasonable impediments that would prevent other members from obtaining access to facilities required for their economic development", and that they should also cooperate with the appropriate international specialized agencies of which they were members in the provision of such facilities; and (b) that members should not only, in their treatment of foreign suppliers of such facilities, conform to the provisions of their relevant international obligations, but should also in general "take no unreasonable action injurious to the interests of such other members, business entities, or persons". Finally, it was provided that the International Trade Organization should receive complaints of failure to adhere to any of the above obligations, and, "in the event of such complaint . . . may, at its discretion, request the members concerned to enter into consultation with a view to reaching a mutually satisfactory solution and lend its good offices to this end".

3. *Protective Measures to Assist Development.* Another issue of major importance had to do with "legitimate protection", or the manner in which the objective of providing a maximum of encouragement for industrial and general economic development could be reconciled with the objective of trade barrier reduction. Some members wished to be accorded wide latitude to use all kinds of protective devices in support of infant industries. One delegation suggested that this should be done under the supervision of specially constituted national authorities or tribunals. More generally, it was argued that permission to use protective devices should be granted in accordance with specified criteria, drawn so as to admit cases in which the over-all efficiency of a country's economy would be enhanced by diversification, as well as cases where there was reasonable prospect that the particular industry in question would ultimately to able to compete efficiently. On the other hand, the commercial policy provisions of the U. S. Draft Charter placed definite limitations on the use of certain restrictive devices such as quantitative regulation of imports, although these provisions allowed a substantial measure of freedom to use subsidies and also allowed tariffs to be imposed or raised in cases where tariff rates were not bound against increase as a result of voluntarily negotiated tariff agreements.

In the process of accommodating these differing views, it was decided that allowances for exceptional treatment for new or reconstructed industries should be made within the Chapter on Economic Development in preference to having a series of special exceptions written into the various section of the Chapter on Commercial Policy.[3] An article was accordingly drafted to provide: (a) recognition that special governmental resistance, which may take the form of protective measures, may be required to promote the establishment or reconstruction of particular industries; (b) recognition "that an unwise use of such protection would impose undue burdens on their own economies and unwarranted restrictions on international trade, and might increase unnessarily the difficulties of adjustment for the economies of other countries"; and (c) a procedure whereby a member with a legitimate case for granting special protection to certain industries, in order to assist its economic development, may enlist the support of the International Trade Organization and avoid retaliatory action on the part of other members.

This procedure was made to depend on the kind of obligation from which release may be sought. In all cases—if a member proposes to employ any pro-

[3] A message was, however, sent to Committee II requesting it to make the following provisions: (1) In Article 18 of the U. S. Draft, "so that the Organization and other members should, when considering the contribution which a member can make to a reduction in tariffs, take into account the height of the tariff of that member, and the need, if any, of that member to use protective measures in order to promote industrial and general economic development"; (2) In Article 20, "to cover the position of a member who, as a result of its plans for industrial development or reconstruction, anticipates that its accruing international monetary resources will be adequate to finance the needed imports of goods, for example, capital goods, for the carrying out of such plans unless it imposes regulations restricting the import of certain classes of goods, for example, consumer goods." One delegate entered a reservation with respect to whether the article should not make more specific provision for the use of regional preferential arrangements as a means of giving protection.

tective measures that would conflict with any of its obligations under or pursuant to the Charter—it must first inform the Organization, which in turn shall promptly notify other members substantially affected, give them an opportunity to present their views, and "then promptly examine the proposal in the light of the provisions of this chapter, the findings presented by the applicant member, the views presented by members substantially affected, 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 member". The next step, however, assuming the Organization concurs in the proposal, will differ according to circumstances. If permission is being sought to raise a tariff that has been bound as a result of tariff negotiations with other members, or to impose some other form of protection that is otherwise not permitted under the Charter and that would impair the value to other members of an agreement negotiated with respect to a tariff, the Organization shall, as a precondition for granting the release, "sponsor and assist in negotiations between the applicant member and other members substantially affected, with a view to obtaining substantial agreement". On the other hand, if the requested release is one that would not impair a negotiated tariff concession, the Organization, after taking the earlier steps, may give final approval at its own discretion. In either type of case, a release when granted is "subject to such limitations as the Organization may impose".

4. *Allocation of Functions.* The final item on the agenda of the Joint Committee concerned the part that the International Trade Organization itself should play in carrying out the various functions relating to development. It was recognized that requests for permission to impose special protective measures in the interests of development should be handled by the Commission on Commercial Policy, since they would involve obtaining release from commercial policy obligations. It was also agreed that members themselves should "undertake to promote the continuing industrial and general economic development of their respective countries and territories" and in that connection should "cooperate through the Economic and Social Council of the United Nations and the appropriate intergovernmental specialized agencies". With these questions settled, however, an issue arose which the Committee was unable to resolve. This involved deciding how far the International Trade Organization should go in providing technical and other positive assistance to members in connection with their development programs.

One view was that the Organization should itself undertake certain of the positive functions involved, particularly in the provision of technical aid to members in the formulation and execution of plans for development. In support of this position it was urged that the task was essentially administrative in character and hence appropriate to a specialized agency; that its performance by the International Trade Organization would provide a useful means of positive cooperation with members; and that the best way to secure a balanced point of view within the Organization would be to provide its personnel with continuous experience with the positive as well as the protective aspects of national development policies. On the other side it was pointed out that there were already several international agencies concerned with various aspects of industrial development, including the newly created Sub-Commission on Economic Development of the Economic and Social Council, the International Bank for Reconstruction and Development, the International Labor Organization, the Food and Agriculture Organization, and the United Nations Educational, Scientific, and Cultural Organization. In view of this fact, some members expressed the opinion that, in the interests of avoiding a duplication of functions, the broad language of the U. S. Draft Charter on this question should be retained, and a specific decision to undertake positive tasks postponed, until experience should show that necessary functions were not being performed either under the Council or by other specialized agencies.

Rather than attempt to settle this issue, the Committee decided to request the opinion of the Economic and Social Council. The following clause was inserted in the new chapter, but was enclosed in brackets to indicate its tentative character: "The Organization, at the request of any member, shall advise such member concerning its plans for economic development and, within its competence and resources, shall provide such member with technical assistance in completing its plans and carrying out its programmes." A resolution was then drafted drawing the attention of the Economic and Social Council to the discussion of this question in the Committee's report and asking the Council to state, before the commencement of the Second Session of the Preparatory

Committee, whether the clause provisionally included in the draft chapter "is in accordance with the Council's views on the appropriate allocation of functions relating to economic development".

XII. Entertainment and Official Functions

The United States Delegation held a reception for the delegates of the other sixteen participating governments at the American Embassy Residence, 14 Princes Gate, London, S. W. 7, on October 22. The Chairman of the Delegation also held a series of private dinners for the heads of the other Delegations. In addition, various members of the Delegations were hosts at several luncheons.

Most of the participating Delegations were hosts at receptions or other social affairs to which members of the United States Delegation were invited.

XIII. Closing Plenary Sessions

At the closing plenary sessions the report on credentials and the reports of the various committees were approved.

Resolutions were adopted:

(1) instructing the Executive-Secretary to prepare a report of the First Session of the Preparatory Committee;

(2) calling for a second meeting of the Preparatory Committee in April 1947, at Geneva;

(3) recommending tariff negotiations among the Preparatory Committee members in connection with and as a part of Committee's Second Session;

(4) appointing an Interim Drafting Committee and defining its functions;

(5) requesting the advice of the Economic and Social Council as to whether certain proposed functions of the International Trade Organization, as set forth in the Chapter of the Charter on Economic Development, are consistent with the Council's views (see Section XI, F, 4 above), and

(6) regarding the establishment of an Interim Coordinating Committee on International Commodity Arrangements to facilitate intergovernmental consultation and action on commodity problems prior to the establishment of the International Trade Organization.

The heads of the various delegations and the representatives of the International Chamber of Commerce and the World Federation of Trade Unions made addresses summarizing their general impressions of the work of the Preparatory Committee. Beneath the compliments exchanged and the high praise of the Committee's work contained in prepared texts, there seemed to be a general feeling that the First Session of the Preparatory Committee had been highly successful and that much had been accomplished.

XIV. Summary and Appraisal

The Committee considered drafts of texts of eighty-nine article prepared for possible inclusion in a Charter of an International Trade Organization. On two of these articles (those dealing with complete state monopolies of import trade and with relations with non-members) it deferred action until its second meeting. On eleven articles (dealing primarily with formal and organizational matters and with questions of customs administration) it referred the texts to an Interim Drafting Committee. On two other articles (dealing with voting in the International Trade Organization and with membership on the Executive Board of the Organization) it came to no agreement and instructed the Interim Drafting Committee to prepare alternative drafts. On the other seventy-four articles, covering all of the important substantive questions that were before the Committee, and most of the detailed provisions with respect to organization, it came to wide agreement. On two of these articles, three delegations recorded reservations and fourteen came to agreement. On three others, two delegations recorded reservations and fifteen came to agreement. On each of six others, one delegation reserved its position and sixteen came to agreement. On the remaining sixty-three articles, agreement was unanimous.

It should be emphasized that the work of the meeting was carried on at the expert level, that the negotiations were preparatory rather than conclusive, and that the positions taken involve no final commitments. It is nonetheless true

that the Committee has carried the work of drafting a world trade charter to a stage that should make possible its approval without major changes in form or substance.

At its final session the Committee also approved the reports of six sub-committees outlining in detail the issues discussed, the views expressed and the agreements reached on employment, economic development, commercial policy, restrictive business practices, commodity arrangements, and organization. The report of the sub-committee on commercial policy includes a detailed memorandum on "Procedures for Giving Effect to Certain Provisions of the Proposed International Trade Organization Charter by Means of a General Agreement on Tariffs and Trade Among the Members of the Preparatory Committee". Approval of this memorandum establishes an agreed procedure to be followed in the reciprocal trade negotiations to which the United States issued invitations in December 1945.

The Committee also adopted a series of resolutions: (1) instructing the secretariat to prepare a report on its first meeting, (2) calling a second meeting to be held in Geneva beginning on April 8, 1947, (3) recommending to member governments that the projected trade agreement negotiations be sponsored by the Preparatory Committee and included in the agenda for its second meeting, (4) appointing an Interim Drafting Committee to meet in New York on January 20 and prepare the draft Charter of the International Trade Organization for presentation to its second meeting, (5) recommending to the Secretary-General of the United Nations the appointment of an Interim Committee on Commodity Arrangements to serve pending the establishment of the International Trade Organization, and (6) requesting the Economic and Social Council to determine whether the provision of technical assistance to countries in the process of industrial development should be included within the functions of the International Trade Organization.

The objectives for which the United States sought agreement, as set forth by the Chairman of the American Delegation at the second plenary session of the meeting, (see Section VII, pages 5 to 8) were as follows:

1. that existing barriers to international trade should be substantially reduced so that the volume of such trade may be large—larger, certainly, than it was between the two world wars;
2. that international trade should be multilateral rather than bilateral;
3. that international trade should be non-discriminatory;
4. that prosperity and stability, both in industry and agriculture, are so intimately related to international trade that stabilization policies and trade policies must be consistent, each with the other;
5. that the rules that govern international commerce should be so drafted that they will apply with equal fairness and with equal force to the external trade with all nations, regardless whether their internal economies are organized on the basis of individualism, collectivism, or some combination of the two.

The desirability of these objectives was not questioned by any of the countries participating in the meeting.

The American Proposals for the Expansion of World Trade and Employment were summarized in April 1946[1] as follows:

"We have proposed, first, that the devices by which governments have distorted the natural flow of private trade, whether through the restriction of imports or the artificial stimulation of exports, be modified or abandoned. To this end, we have proposed that customs formalities be simplified; that discriminatory taxes, transit charges, and other regulations be removed; that trade boycotts be outlawed; that common principles be adopted to govern tariff valuation and the application of anti-dumping and countervailing duties; that full publicity be given to laws and regulations affecting trade; that tariffs be substantially reduced and that tariff preferences be eliminated; that duties on exports be imposed without discrimination; that exchange controls be governed by the principles established by the International Monetary Fund; that import quotas be limited to a few really necessary cases; that exchange controls and import quotas be administered without discrimination; that subsidies, in general, should be the subject of international consultation; and that subsidies on exports should be confined to exceptional cases, under general rules.

[1] Address by Clair Wilcox, before the American Academy of Political and Social Science.

"All of the foregoing proposals relate to cases of public interference with private trade. In many cases, however, governments themselves have established enterprises to buy and sell abroad. And in a few cases, governments have assumed a complete monopoly of their foreign trade. Here we have proposed that governments conducting such enterprises should agree to give equal treatment to the commerce of all friendly states; that they should make their purchases and sales on purely economic grounds; and that governments whose enterprises are completely socialized should commit themselves as to the quantities of goods which they propose to import. It is the purpose of these proposals to apply common principles of fair dealing to the trade of capitalist and socialist economies, so that the two systems may meet in the market place without conflict, thus to contribute each to the other's prosperity and welfare.

"International trade has been restrained by governments. It has also been restrained by the restrictive practices of private business; price fixing, market sharing, curtailment of output or exports, suppression of technology, and discrimination against competitors. We have therefore proposed that nationals commit themselves to act, individually and cooperatively, to curb such practices when they interfere with the objective of equal access to materials and markets, increased production and trade, and high levels of employment and real income. As one means of carrying out this commitment, it is proposed that a special agency be established, within an International Trade Organization, to receive complaints, concerning restrictive practices of International combines and cartels, to obtain and examine the facts which are relevant to such cases, and to recommend the remedies that may be required. Enforcement against private violators necessarily rests with sovereign states.

"If trade is thus to be freed from the fetters that have bound it, we must give assurance to the many small producers of the great primary commodities that necessary adjustments to shifting demands will be gradual rather than sudden and that these producers will be protected, during the period required for such adjustments, against the impact of violent change. But we must be sure that the measures adopted to this end are temporary rather than permanent and that they are not administered at the expense of the consumers involved. It is therefore proposed: that action with respect to the special problems of surplus commodities, in world trade, be international rather than national; that the solution of this problem be sought by measures that would remove the basic causes of the difficulty, not by measures that would perpetuate it; that the solution be sought, in particular, by methods that would expand consumption, that measures restricting exports for fixing prices, where they are necessary, be limited in duration; that they be so administered as to provide increasing opportunities to satisfy requirements from the most economic sources; that they be attended at every stage, by full publicity; and that consuming countries be given an equal voice with producing countries in their formulation and administration.

"We have proposed, further, that all of these commitments be embodied in a World Trade Charter and that they be carried out through an International Trade Organization, established under the Charter, in appropriate relationship to the Economic and Social Council, as an integral part of the structure of the United Nations. Final authority in this organization would be vested in a conference of member states; continuing oversight would be delegated to an executive board; daily operations would be conducted by three commissions of experts dealing, respectively, with commercial policy, business practices, and commodity problems; and all of these organs would be served by a central secretariat. It would be the function of the organization to collect, analyze, and publish data on the operation of the Charter, to develop common technical standards and provide technical assistance to governments; to review and advise on treaties, agreements, practices and policies affecting international trade, to interpret the provisions of international agreements and to grant exceptions to such agreements in accordance with established rules, to hear complaints and make recommendations to member states, and to provide a medium for consultation and for the settlement of disputes. The organization would thus afford a permanent mechanism for international collaboration on all matters affecting world trade.

"All of these proposals point toward an increasing volume of trade. But increasing trade involves increasing interdependence and increasing inter-

dependence involves, in turn the risk of increasing instability. If our proposals are to gain acceptance, therefore, assurance must be given that nations will seek, through measures that are not inconsistent with them, to achieve and maintain high and stable levels of production and employment. For this reason, it is proposed, finally, that each nation should agree to take action designed to provide full and regular employment within its own jurisdiction; that no nation should seek to serve this end by adopting measures which would export its unemployment to its neighbors; and that all nations should cooperate in an effort to stabilize production by exchanging information and participating in consultations with respect to anti-depression policies".

The revised Draft Charter approved by the Preparatory Committee at its First Meeting conforms in principle to the American proposals and provides in detail for their effectuation.

The First Meeting of the Preparatory Committee represents but one step in a long program of international collaboration with respect to trade policy in which the initiative, at every stage, has been taken by the United States. This program had its origin in the Hull Trade Agreements legislation in 1934 and found expression in the Atlantic Charter in 1941, the Mutual Aid Agreements in 1942 and the Bretton Woods Agreements in 1944. It motivated the renewal of the Trade Agreements Act, the conclusion of the Anglo-American Financial Agreement, the publication of the American *Proposals for Expansion of World Trade and Employment*, and the issuance to fifteen other countries of invitations to participate in trade agreement negotiations in 1945. It led, in 1946, to the adoption by the Economic and Social Council of a resolution, introduced by the United States, providing for the calling of an International Conference on Trade and Employment and setting up the Preparatory Committee; to the preparation, circulation, and publication by the United States of the *Suggested Charter for an International Trade Organization;* to the discussion of this draft with the other governments represented on the Preparatory Committee; and to its adoption by the Preparatory Committee as the basis of the deliberations at its First Meeting. This is an American program, conceived, sponsored, and promoted, over a long period of years, by the Government of the United States. There can be no question concerning the commitment of this Government to the program or its obligation to carry it through to a successful conclusion.

The next steps, in their chronological order, are the public hearings on the tariff lists in Washington, beginning on January 13, 1947, the meeting of the Interim Drafting Committee in New York beginning on January 20, 1947, the public hearings on the Draft Charter in Washington and other cities beginning on February 25, 1947, the Second Meeting of the Preparatory Committee, incorporating the trade agreement negotiations, in Geneva, beginning April 8, 1947, and the International Conference on Trade and Employment sometime in the fall of 1947. The Department should send three technical experts to the meeting of the Interim Drafting Committee; this meeting is expected to last about a month. The United States will have to send a staff of about 150 persons to the Second Meeting of the Preparatory Committee. This meeting will require from three to five months. The final conference will require a much smaller staff and a much shorter period; perhaps 25 to 50 people for two of three weeks.

The complexity and the importance of the problems involved in the projected negotiations are such as to necessitate the inauguration of a carefully considered program of public information.

If the American trade program were to be rejected, the pattern that would fasten itself upon the trade of the world would be seriously prejudicial to the interests of our people. Tariffs would be raised against our goods all over the world and the margins of preference that discriminate against them would be increased. Far more serious than this, however, is the fact that all other nations would impose quotas on imports and that many nations would so administer these quotas as to discriminate against goods coming from the United States. Nations have now acquired considerable experience in the administration of quota systems and they will certainly retain, extend, and intensify these systems unless such restrictions are outlawed by international agreement.

In the absence of agreement upon the principles embodied in the proposed Charter, the United States would have to use the bargaining power provided by the Reciprocal Trade Agreements Act not only to obtain reductions in foreign tariffs but also to reduce or eliminate margins and preference and to purchase larger quotas for American goods and non-discriminatory administration of

foreign quota systems. From the point of view of our national economic interest, the most important provisions of the Charter are those that (1) commit nations to negotiate for the substantial reduction of tariffs, (2) provide that margins of preference shall be reduced or eliminated *automatically* as tariffs are reduced, (3) outlaw the use of import quotas *as a matter of principle*, permitting them only in specified cases, under exceptional circumstances, with international approval, and attaching penalties to their unauthorized use, and (4) the provision that quotas, where permitted, be administered, in general, without discrimination. With preferences reduced automatically and import quotas outlawed as a matter of principle, the tariff concessions granted by the United States can be used in obtaining equivalent tariff concessions abroad.

Discriminatory import quotas are the most serious threat to American exports in particular, to the expansion of world trade in general, and to the maintenance of economic peace. Import quotas are much more effective than tariffs as a barrier to trade and discriminatory quotas are much more effective than preferences as a method of excluding particular goods. If the United States is compelled to bargain its way into foreign markets, country by country, product by product, and month by month, it will be under great pressure to increase its bargaining power by establishing an import quota system of its own. The administration of such a system, involving the continuous negotiation of quota bargains, would require the establishment of a sizeable bureaucracy, would reduce the freedom of private enterprise both in foreign and in domestic trade, would become an instrument of political pressure, and would be productive of continuous international irritation.

It is now clear that the rest of the world is prepared to go along with the trade program proposed by the United States. If it were not for this program, the world would be headed straight toward the deliberate strangulation of its trade through the imposition of detailed administrative controls. And with the strangulation of trade, the prospect for successful international cooperation in economic and even in political affairs would be accordingly impaired. The world trade Charter would reverse this trend. It offers an alternative to economic warfare, the only alternative that is now before the nations of the world. The Charter is an American achievement. It is an achievement that the people of the United States cannot afford to throw away.

APPENDIX A

AGENDA OF THE PREPARATORY COMMITTEE

1. Opening of the session by the temporary President.
2. Remarks by the representative of the host Government.
3. Adoption of the provisional rules of procedure.
4. Election of the Chairman.
5. Election of the First Vice-Chairman.
6. Election of the Second Vice-Chairman.
7. Adoption of the Provisional Agenda.
8. General discussion of the scope of the work of the Preparattory Committee.
9. Establishment of Committees.
10. (a) International agreement relating to the achievement and maintenance of high and steadily rising levels of effective demand, employment and economic activity.
    (b) International agreement relating to industrial development.
    (c) International agreement relating to regulations, restrictions and discriminations affecting international trade.
    (d) International agreement relating to restrictive business practices.
    (e) International agreement relating to inter-governmental commodity arrangements.
    (f) Establishment of an international trade organization, as a specialized agency of the United Nations, having appropriate responsibilities in the above fields. (Article 3 of the Council Resolution.)
11. Elaboration of annotated draft agenda, including a draft Convention, for consideration by the International Conference on Trade and Employment. (Article 2 of the Council Resolution.)
12. Date and place of the International Conference on Trade and Employment. (Article 5 of the Council Resolution.)
13. Determination of what States, if any, not Members of the United Nations, should be invited to the Conference on Trade and Employment. (Article 5 of the Council Resolution.)

14. Final consideration and adoption of reports of Committees.
15. Adoption of the report of the Preparatory Committee for submission to the Economic and Social Council on agenda items 10, 11, 12 and 13 in accordance with the Economic and Social Council's Resolution of 18 February 1946, setting up the Preparatory Committee.
16. Other items.

EXHIBIT V

REPORT ON INFORMAL HEARINGS ON PROPOSED CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION

UNDER THE DIRECTION OF THE EXECUTIVE COMMITTEE ON ECONOMIC FOREIGN POLICY, FEBRUARY 25 THROUGH MARCH 13, 1947

TABLE OF CONTENTS

	Page		Page
I. Preparation for Hearings	917	IV. Suggestions for changes in proposed charter (digest)	938
II. The Hearings	925		
III. Evaluation	937		

I. PREPARATION FOR HEARINGS

PURPOSE AND SPONSORSHIP

In recognition of the important bearing an International Trade Organization would have upon many economic interests in the United States, and in the belief that civic and other organizations were alert to the importance of international economic arrangements, the Executive Committee on Economic Foreign Policy[1] decided on December 27, 1946 to sponsor a series of informal hearings on the proposed Charter for an International Trade Organization. The purpose of the hearings was to afford all interested persons and groups an opportunity to present their views on the proposed Charter as a whole or on any part of it. It was decided that hearings should be held in Boston, Chicago, Denver, New Orleans, New York, San Francisco, and Washington.

Accordingly, on December 30, 1946, the Department of State issued a press release (No. 937) announcing the hearings and inviting all interested persons and groups to present their views on the Charter orally in one or more of the hearings cities, or in writing directly to the Executive Committee on Economic Foreign Policy. Attached to the Press Release was a summary of the proposed Charter. (See Attachment 1.)

ARRANGEMENT FOR THE HEARINGS

The Department of Commerce made its Field Service representatives in the hearings cities available to make local arrangements for the hearings. They were asked to secure physical facilities for two-day hearings and to arrange for verbatim records of the proceedings.

The Department of Commerce field representatives were likewise requested to secure hotel accommodations for the members of the Panel who were to conduct the hearings.

In addition, each field representative was requested to provide fullest regional publicity regarding the hearings in order to assure all interested persons and organizations an opportunity to present their views. This was done in part through local press releases and announcements on local radio stations. The Commerce field representatives supplemented these efforts by direct contacts with regional and local organizations. They were specifically requested to take the initiative in making business, farm and labor interests, together with civic and other interested organizations, aware of the hearings, and to invite them to study the proposed Charter and to make their views on it known to the Panel.

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[1] Established by the President on April 18, 1944 "to examine problems and developments affecting the economic foreign policy of the United States and to formulate recommendations in regard thereto for the consideration of the Secretary of State, and, in appropriate cases, of the President." Membership of the Committee includes representatives from the Department of State, Treasury Department, Department of Agriculture, Department of Commerce, Department of Labor, United States Tariff Commission, and the Bureau of the Budget.

At the same time, copies of the press release announcing the hearings, the preliminary re-draft of the ITO Charter, the Informal Commentary to Accompany Preliminary Draft of Articles of a Charter for an International Trade Organization of the United Nations (Department of State, February 1947), and other relevant materials were sent to the field offices for distribution to interested persons.

In the early part of February 1947, a representative of the Department of State visited each of the hearings cities for two or three days to offer his assistance to the Department of Commerce representative and to assure himself that adequate measures were being taken to afford all interested persons an opportunity to be heard.

THE HEARINGS PANELS

Members of the Panels who were sent out to conduct the hearings in each city were drawn from all interested Administrative Agencies represented on the Executive Committee on Economic Foreign Policy. The Panel members and secretaries for each city were:

Washington—February 25–26, 1947.—Room 474, Department of State Building:
Willard L. Thorp, Assistant Secretary of State—Chairman.
Lynn R. Edminster, Vice-Chairman, Tariff Commission.
David A. Morse, Assistant Secretary of Labor.
L. A. Wheeler, Office of Foreign Agricultural Relations, Department of Agriculture.
Thomas C. Blaisdell, Jr., Assistant to Secretary of Commerce for International Trade.
Andrew Overby, Special Assistant to Secretary of Treasury.
Secretary: Ellsworth Carlson, Department of State.

New York City—February 27–28, 1947.—North Ballroom, Eighth Floor, Hotel Astor:
Willard L. Thorp, Assistant Secretary of State—Chairman.
Edgar B. Brossard, Commissioner, Tariff Commission.
Thomas C. Blaisdell, Jr., Assistant to Secretary of Commerce for International Trade.
Secretary: Ellsworth Carlson, Department of State.

Boston—March 3–1, 1947.—Federal Court Room No. Five, Twelfth Floor, Federal Post Office Building:
Harry C. Hawkins, Minister-Counselor for Economic Affairs, American Embassy, London.
Edgar B. Brossard, Commissioner, Tariff Commission.
Frank M. Shields, Chief, Commercial Policy Staff, Department of Commerce.
Secretary: Edmund Kellogg, Department of State.

Chicago—March 3–4, 1947.—Room 582, United States Courthouse:
Donald D. Kennedy, Chief, Division of International Resources, Department of State—Chairman.
John M. Cassells, Chief of British Commonwealth Division, Department of Commerce.
George Brons, Special Assistant to the General Counsel, Treasury Department.
Secretary: Willis C. Armstrong, Department of State.

Denver—March 10–11, 1947.—Room 330, Post Office Building (Petit Jury Room):
Donald D. Kennedy, Chief, Division of International Resources, Department of State—Chairman.
John M. Cassells, Chief of British Commonwealth Division, Department of Commerce.
George Brons, Special Assistant to the General Counsel, Treasury Department.
Secretary: Willis C. Armstrong, Department of State.

New Orleans—March 3–4, 1947.—International House Auditorium:
Clair Wilcox, Director, International Trade Policy, Department of State—Chairman.
John H. G. Pierson, Adviser to Assistant Secretary in Charge of Labor Relations, Department of Labor.
Nathan Ostroff, General Counsel, Office of International Trade, Department of Commerce.

San Francisco—March 10–11–12, 1947.—U. S. Customs Court, Room 417, Appraisers Building:

Clair Wilcox, Director, International Trade Policy, Department of State—Chairman.
John H. G. Pierson, Adviser to Assistant Secretary in Charge of Labor Relations, Department of Labor.
Murray Thompson, Price Analyst, Office of Price, Department of Agriculture.
Nathan Ostroff, General Counsel, Office of International Trade, Department of Commerce.
John P. Gregg, Commissioner, Tariff Commission.
Secretary: Robert P. Terrill, Department of State.

PROCEDURE FOR PRESENTING VIEWS ON CHARTER

The press release announcing the hearings (No. 937, December 30, 1946) requested all persons desiring to present oral views on the proposed Charter to notify the Executive Secretary of the Executive Committee on Economic Foreign Policy in writing. Persons wishing to appear in Washington or New York were asked to inform the Committee no later than February 12, 1947; in the other hearings cities, not later than February 20, 1947. Deadlines were established in order to give the Committee a chance to schedule appearances.

On receipt of notification to appear, the Executive Secretary of the Committee acknowledged receipt of the notification and indicated the time and place of the appearance. After the closing date of notification, a master schedule of appearances was made for each hearings city. (See Attachment 2.)

Persons wishing to present their views on the proposed Charter in writing were asked to submit them to the Executive Secretary of the Executive Committee on Economic Foreign Policy not later than March 1, 1947.

ATTACHMENT 1

DEPARTMENT OF STATE,
January 2, 1947.

For the press.

The Department of State announced today that a series of informal hearings will be held for the purpose of affording all interested persons and groups an opportunity to present their views regarding the proposed Charter for an International Trade Organization.

The proposed ITO Charter, on which the hearings will be held, was prepared by the Preparatory Committee on Trade and Employment at its first meeting in London, October 15–November 26, 1946. This Committee was created by the Economic and Social Council of the United Nations by resolution of February 18, 1946 and consists of the following countries: Australia, Belgium, Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Luxembourg, Netherlands, New Zealand, Norway, South Africa, Union of Soviet Socialist Republics, the United Kingdom and the United States.

The Preparatory Committee used as the basis for its work at London a text developed by experts within the United States Government and published by the Department of State in September 1946 under the title of "Suggested Charter for an International Trade Organization". Both the "Suggested Charter" and the new text issued by the Preparatory Committee are based on the fundamental principles of expanded trade and enlarged employment set forth in the *Proposals for Expansion of World Trade and Employment* presented by the Government of the United States in December 1945 for consideration by the governments and peoples of the world.

The Preparatory Committee will meet again in Geneva, Switzerland, beginning April 8, 1947, at which time it will complete its work on the proposed Charter with a view to making definite recommendations to a general International Conference on Trade and Employment to be held later. The instrument emerging from the general International Conference will be submitted to the Congress of the United States.

The hearings announced today are intended to assist the interested agencies of the United States Government to obtain a full expression of American opinion in preparing for the Geneva meeting of the Preparatory Committee. These hearings will be conducted under the auspices of the Executive Committee on Economic Foreign Policy, which consists of representatives of the Departments of State, Treasury, Agriculture, Commerce, and Labor and the

United States Tariff Commission. The Chairman of the Committee is Willard L. Thorp, Assistant Secretary of State for Economic Affairs.

It should be noted that the hearings on the proposed Charter are separate and distinct from the hearings to be conducted, beginning January 13, 1947, by the Committee for Reciprocity Information in connection with reciprocal trade-agreement negotiations.

The hearings on the proposed Charter will be held at the following times and places:

Washington, D. C., Room 474, Department of State Building, Seventeenth and Pennsylvania Avenue, N. W., beginning at 10:30 a. m., E. S. T., February 25, 1947.

Boston, Massachusetts, beginning at 10:30 a. m., E. S. T., March 3, 1947, at a place to be announced later by the Boston office of the Department of Commerce.

Chicago, Illinois, beginning at 10:30 a. m., C. S. T., March 3, 1947, at a place to be announced later by the Chicago office of the Department of Commerce.

New Orleans, Louisiana, beginning at 10:30 a. m., C. S. T., March 3, 1947, at a place to be announced later by the New Orelans office of the Department of Commerce.

San Francisco, California, beginning at 10:30 a. m., P. S. T., March 10, 1947, at a place to be announced later by the San Francisco office of the Department of Commerce.

Denver, Colorado, beginning at 10:30 a. m., M. S. T., March 10, 1947, at a place to be announced later by the Denver office of the Department of Commerce.

All persons desiring to present oral views at these hearings should inform the Executive Secretary, Executive Committee on Economic Foreign Policy, Room 183, Department of State Building, Washington, D. C. Persons wishing to appear in Washington should notify the Committee in writing not later than February 12, 1947. Persons expecting to present oral views in the other cities should notify the Committee not later than February 20, 1947. Each letter should state at which of the places listed above the writer wishes to present his oral views. All persons desiring to present oral views will be advised by the Executive Secretary regarding the time of their individual appearances. The meetings will be open to the public and the press.

Views in writing regarding the proposed Charter for an International Trade Organization should be transmitted to the Executive Secretary of the Committee, Room 133, Department of State Building, Washington, D. C., preferably by February 12, 1947, and in any event not later than March 1, 1947. It would be of assistance to the Committee if persons submitting written views could supply ten copies.

A preliminary mimeographed draft of the text of the proposed ITO Charter on which views are solicited accompanites this notice. A printed copy of the text, together with appropriate explanatory material from the Report of the first meeting of the Preparatory Committee, will be made available shortly upon publication of the Report. Copies of these documents may be obtained from the Department of State, Washington, D. C., or from district offices of the Department of Commerce.

Proposed Charter for an International Trade Organization

Summary of Provisions

I. Introduction

In September 1946, the United States Government published a *Suggested Charter for an International Trade Organization* of the United Nations. The *Suggested Charter* was submitted to the Preparatory Committee of the International Conference on Trade and Employment (created by the Economic and Social Council of the United Nations), which held its first meeting in London between October 15 and November 26, 1946. The Preparatory Committee used the *Suggested Charter* as the main basis for its discussion.

Acting as a group of experts, without committing the governments represented, the Preparatory Committee agreed to texts of draft articles with respect

to about 85 percent of the provisions which might be included in a Charter for an International Trade Organization. In the case of other provisions no specific action was taken because of the shortage of time.

The following is a summary of the text of a redrafted Charter for an International Trade Organization consisting of a) articles agreed upon at the London meeting of the Preparatory Committee and b) in cases where the Committee took no specific action, articles appearing in the *Suggested Charter* originally put forward by the United States. Statements summarizing the latter articles are shown in square brackets.

II. THE CHARTER AS A WHOLE

The ITO Charter seeks to accomplish five main things: 1) to promote the maintenance of employment in Member countries, 2) to promote the economic development of Member countries, 3) to bring about the general relaxation and regulation of barriers to world trade, whether such barriers are imposed by governments or private organizations, 4) to provide an orderly procedure under agreed rules for the negotiation of intergovernmental commodity arrangements and 5) to create permanent international machinery for consultation and collaboration in trade and related matters.

The provisions of the Charter are set forth in eight Chapters and 89 Articles, as follows:

[Chapter I—Establishes the broad purposes of the International Trade Organization (Article 1).]

Chapter II—Regulates membership in the Organization (Article 2).

Chapter III—Provides for the maintenance of employment, the development of resources and productivity, and the promotion of labor standards (Articles 3 through 9).

Chapter IV—Provides for the promotion of the industrial and general economic development of Member countries (Articles 10 through 13).

Chapter V—Provides for the reduction of governmental barriers of all kinds and for the elimination of trade discriminations (Articles 14 through 38).

Chapter VI—Provides for concerted action to eliminate restrictive business practices in international trade (Articles 39 through 45).

Chapter VII—Regulates the making of intergovernmental commodity agreements (Articles 46 through 60).

Chapter VIII—Creates the machinery for an International Trade Organization to facilitate the operation of the Charter and to promote continuing international cooperation in trade and related matters (Articles 61 through 89).

III. SUMMARY OF DETAILED PROVISIONS

Chapter I. Purposes

[Chapter I sets for the broad purposes of the ITO. These are: to promote the cooperative solution of trade problems; to expand opportunities for trade and economic development; to aid the industrialization of underdeveloped countries; and in general to promote the expansion of the production, exchange and consumption of goods, the reduction of tariffs and other trade barriers and the elimination of trade discriminations.]

Chapter II. Membership

Chapter II looks toward broad membership in the Organization. It provides for two general categories of members: original members and other members. Original members would be all those countries which are represented at the proposed international Conference on Trade and Employment and which accept the ITO Charter by a certain date. Other countries would be brought in with the approval of the Organization after it had become established.

Chapter III. Employment

Chapter III recognizes that the maintenance of employment and of high and rising demand for goods and services are essential to achieve the purposes of the ITO and, reciprocally, that measures to promote employment and demand should be consistent with these purposes. Accordingly, each Member of the ITO would agree to take action designed to achieve and maintain employment and demand

within its own jurisdiction through measures appropriate to its political and economic institutions; and to participate in arrangements for the collection, analysis and exchange of information on employment problems and in consultations on employment policies.

The Economic and Social Council would have the responsibility for furthering the employment objectives of the Charter. These matters are placed under the Economic and Social Council rather than under the ITO because the Council has been given the broad function of promoting full employment by the Charter of the United Nations, and also because the Council, by virtue of its authority to coordinate the many specialized international agencies whose activities contribute to the maintenance of employment, is better fitted for this work than the ITO.

Chapter III also provides that Members will take action designed to develop their economic resources and raise their standards of productivity; will take such action as may be appropriate and feasible to eliminate substandard labor conditions; and will cooperate in action designed to remove fundamental maladjustments in balances of payments.

Chapter IV. Economic Development

Chapter IV recognizes the importance of bringing about the industrial and general economic development of all countries, particularly underdeveloped countries. Accordingly, Members would undertake to promote their own development and would agree to cooperate, through the Economic and Social Council of the United Nations and by other means, to promote industrial and economic development generally. Members would agree on the one hand not to put any unreasonable restraints on the export of facilities, such as capital and equipment, which are needed for the economic development of other countries, and, on the other hand, not to take any unreasonable action injurious to foreign investors who are supplying facilities for development. It would be recognized that governmental assistance, including protective measures, may be needed in some cases to promote the establishment of particular industries; at the same time it would also be recognized that the unwise use of protection will frustrate sound development and damage international trade. Protective measures which run contrary to the provisions of Chapter V of the Charter relating to the relaxation of trade barriers, may not be used except with the specific approval of the Organization and, in appropriate cases, with that of countries whose trade may be directly affected.

Chapter V. General Commercial Policy

Chapter V, the longest in the Charter, provides for the reduction or elimination of governmental barriers to international trade. Broadly, these barriers take the form of excessive customs regulations of all kinds; tariffs; embargoes and quotas; exchange restrictions on trade; governmental subsidization of production or exports; restrictive practices by state-trading enterprises; and the discriminatory application of trade barriers and controls generally.

Chapter V contains provisions relating to all these types of trade barriers and to connected matters. The Chapter is divided into ten sections, as follows:

Section title	*Short description of section*
Section A (General Commercial Provisions)	Establishes equality of treatment in trade generally. [Eliminates or regulates various administrative devices which hamper imports or discriminate in trade. Requires full publication of trade regulations and advance notice of restrictive regulations.]
Section B (Tariffs and Preferences)	Requires reciprocal negotiations for the substantial reduction of tariffs and for the elimination of import tariff preferences.
Section C (Quantitative Restrictions)	Eliminates quotas and embargoes on trade in general, but permits them for agreed purposes under defined circumstances.
Section D (Exchange Restrictions)	Provides that exchange restrictions on trade shall not be permitted to frustrate the ITO Charter.

Section title	*Short description of section*
Section E (Subsidies)	Requires that subsidies affecting trade be reported to the ITO; that those seriously prejudicing trade be subject to negotiated limitations; and that export subsidies in general be eliminated except under defined circumstances.
Section F (State Trading)	Requires that state trading enterprises be operated in a non-discriminatory manner; that state monopolies of individual products negotiate for the reduction of protection afforded to domestic producers; [and that complete state monopolies of all foreign trade agree to maintain total imports of all products at a level to be negotiated periodically].
Section G (Emergency Provisions—Consultation—Nullification or Impairment)	Permits withdrawal or modification of tariff or other concessions in case of serious injury to domestic producers; provides for consultation with ITO on all phases of Chapter V; permits members to withdraw concessions from countries which do not live up to obligations of Charter.
Section H (Relations with Non-Members)	[Prohibits agreements with non-Members promising them benefits of Charter; prevents Members, after an initial period, from extending tariff concessions to non-Members without ITO approval.]
Section I (Exceptions)	[Excepts from Chapter V measures usually excepted from commercial agreements (e. g. sanitary regulations, traffic in arms, and the like).]

Chapter VI. Restrictive Business Practices

Under Chapter VI Members of the ITO would agree to take appropriate individual and collective measures to eliminate restrictive business practices in international trade whenever they have harmful effects on the expansion of trade or on any of the purposes of the ITO. The Chapter specifies certain practices which would be subject to investigation with a view to their elimination. Among these practices would be those which fix prices, allocate markets or customers, boycott or discriminate against enterprises outside the arrangement, limit production, suppress technology, and improperly use patents, trade-marks, and copyrights.

In order to carry out this policy a complaint procedure would be set up for taking action against particular instances of restrictive business practices. Under this procedure the ITO would receive complaints from a Member, or from persons or business organizations within a Member's territory, that a particular business arrangement is restricting international trade with harmful effects. If the ITO found that the complaint was justified, it could recommend that Members take appropriate remedial action.

Members would agree to cooperate with the ITO in eliminating restrictive business practices. Among other things, they would agree to obtain and furnish to the ITO information needed by it in connection with particular investigations; to consult with the ITO regarding complaints which had been filed; and to take fullest account of ITO recommendations in initiating action to eliminate particular restrictive arrangements.

Chapter VII. Intergovernmental Commodity Arrangements

Chapter VII recognizes that in the case of certain commodities, usually primary agricultural products, special difficulties, such as a world surplus, may arise which would warrant the adoption of intergovernmental commodity agreements, including those which regulate production, trade or prices. Such agreements would have to be consistent with certain general objectives and would need to satisfy certain conditions.

Regulatory commodity agreements would be justified if necessary 1) to enable countries to solve difficulties caused by surpluses without taking action inconsistent with the purposes of the Charter, 2) to avoid the serious distress to producers or labor caused by surpluses when production adjustments cannot be made quickly enough because of the lack of alternative employment opportunities and 3) to provide a working arrangement for a transitional period during which measures may be taken to increase consumption of the surplus product or to facilitate the movement of resources and manpower out of the production of the surplus product into more remunerative lines.

It would be required that the Members concerned must formulate and adopt a program of economic adjustment designed to make progress toward solving the basic problem which gave rise to the proposal for a regulatory commodity agreement; that such agreements be open initially to all ITO Members on equal terms and that they afford equitable treatment to all Members (including those not participating in the agreement); that they provide for adequate representation by Members primarily interested in the commodity as consumers, and give consuming countries an equal vote with producing countries in deciding matters such as the regulation of prices, trade, production, stocks and the like; that, where practicable, they provide for measures to expand consumption of the commodity in question; that they assure supplies of the product adequate to meet world demand at reasonable prices; and that they make appropriate provision to satisfy world consumption from the most effective sources of supply.

Provision is made that full publicity must attend all important stages in the making of intergovernmetal commodity agreements.

Chapter VIII. Organization

Chapter VIII of the Charter sets forth the functions and structure of the ITO and relates them to the substantive undertakings of Members provided for in the earlier Chapters.

Functions. The functions of the ITO largely relate to its responsibilities in connection with Chapter V (Commercial Policy), Chapter VI (Restrictive Business Practices) and Chapter VII (Commodity Agreements). In addition to functions of this kind, the ITO would be authorized to provide assistance and advice to Members and other international organizations in connection with specific projects of industrialization or other economic development; to promote international agreements such as those designed to facilitate the international movemet of capital, technology, art and skills and those relating to commercial travelers, commercial arbitration and the avoidance of double taxation; and to cooperate with the United Nations and other organizations on economic and social matters and on measures to maintain peace and security.

Structure. The principal organs of the ITO would be a Conference; an Executive Board; a Commission on Commercial Policy, a Commission on Business Practices, and a Commodity Commission; and a Secretariat.

The Conference. The governing body of the ITO would be the Conference on which each country belonging to the ITO would be represented. The decisions of the Conference on most matters would be taken by a simple majority vote of the Members present and voting, each country casting one vote.[1] The Conference would have final authority to determine the policies of the ITO. It would be authorized to make recommendations regarding any matter relating to the purposes of the ITO and to elect the members of the Executive Board.

Interim Tariff Committee. An Interim Tariff Committee within the ITO would be charged with the functions of authorizing Members to withhold, if necessary, tariff reductions from other Members which failed to meet their obligations to negotiate for the substantial reduction of tariffs and the elimination of preferences. The Committee would consist of those Members of the ITO which had already fulfilled these requirements among themselves.[2] Other Members of the

[1] A minority of the Preparatory Committee favored the use of a system of weighted voting in the Conference.

[2] Initially, the Interim Tariff Committee would consist of those Members which had made effective the agreement for concerted reduction of tariffs and trade barriers which it is hoped will be concluded by the countries already invited by the United States to negotiate for this purpose. It is contemplated that the agreement would incorporate schedules of tariff concessions and certain of the provisions of Chapter IV of the Chater (e. g. those relating to most-favored-nation treatment, to national treatment on internal taxes and regulations, to quantitative restrictions, etc.),

ITO would be entitled to join the Committee upon the completion by them of adequate negotiations regarding tariffs and preferences. All decisions of the Committee would be taken by majority vote, each member casting one vote.

ExecutiveBoard. The Executive Board would consist of fifteen Members of the ITO elected by the Conference every three years. [Note: Under alternative drafts of the appropriate article permanent membership on the Board by members of chief economic importance would be provided for.] Decisions of the Board would be taken by a majority of the members present and voting, each country casting one vote. The Board would be responsible for executing the policies of the ITO and for exercising powers delegated to it by the Conference. It would be authorized to make recommendations to Members of the ITO, to the Conference, and to other international organizations.

The Board would be required to provide adequate machinery to review the work of the ITO as it relates to industrialization and other economic development.

The Commissions. The Commission on Commercial Policy, the Commission on Business Practices and the Commodity Commission would be established by the Conference and would be responsible to the Executive Board. The Conference would be authorized to establish any other commissions which might in time be required.

The Commissioners would be expert persons appointed by the Board in their personal capacities. The Chairmen of the Commissions could participate, without vote, in the meetings of the Board and of the Conference. Other international organizations having a special interest in the activities of one of the commissions might be invited to participate in its work.

The functions of the three commissions are concerned largely with the making of recommendations to the Executive Board relating to the discharge of the ITO's responsibilities in the three specialized fields. In addition, the commissions would perform any other functions assigned to them by the Conference or the Board, including such functions in connection with the settlement of disputes as the Board might deem appropriate.

Secretariat. The Secretariat of the ITO would consist of a Director General and such staff as might be required.

The Director General would be appointed by the Conference upon the recommendation of the Board. He could participate in the deliberations of the Board, the Conference and the Commissions and initiate proposals for consideration by any organ of the ITO.

Miscellaneous provisions. These provisions largely parallel similar provisions in the constitutions of other international organizations. They deal with relations between the ITO and other organizations, the international responsibilities of the staff of the ITO, legal capacity of the ITO, privileges and immunities of the ITO, amendments to the Charter, interpretation and settlement of legal questions, contributions of Members, entry into force of the Charter and withdrawal from the ITO and termination of the Charter.

II. THE HEARINGS

Places and Dates

It was hoped that the physical facilities for the hearings could be such as to create an informal atmosphere, thus to encourage the most complete freedom of expression by all who presented their views. It was likewise hoped that the hearing rooms could be large enough to accommodate all persons who wanted to attend the hearings as observers. Some difficulty in securing adequate space was encountered in some of the cities, but, for the most part, accommodations were good.

The places at which hearings were held are as follows:

Washington—February 25–26—Room 474, Department of State Building.
New York—February 27–28—North Ballroom, Eighth Floor, Hotel Astor.
Boston—March 3–4—Federal Court Room No. 5, Federal Post Office Building.
Chicago—March 3–4—Room 582, United States Courthouse.
New Orleans—March 3–4—International House Auditorium.
Denver—March 10–11—Room 339, Federal Post Office Building.
San Francisco—March 10–11–12—U. S. Customs Court, Room 417, Appraisers Building.

Schedules of Appearances in the Hearings Cities

Informal Hearings on the Proposed Charter for an International Trade Organization Held Under the Auspices of the Executive Committee on Economic Foreign Policy

Dates of Hearings:

Washington	Feb. 25–26, 1947
New York City	Feb. 27–28, 1947
Boston	Mar. 3–4, 1947
Chicago	Mar. 3–4, 1947
New Orleans	Mar. 3–4, 1947
Denver	Mar. 10–11, 1947
San Francisco	Mar. 10–11, 1947

Agencies represented on the Executive Committee:

Department of State, Chairman.
Department of the Treasury.
Department of Agriculture.
Department of Commerce.
Department of Labor.
United States Tariff Commission.

Calendar of Appearances for Boston

Place.—Federal Court Room No. Five. Twelfth Floor. Federal Post Office Building.

Time.—10:30 a. m. and 2:30 p. m., March 3 and 4, 1947.

Panel Members.—Harry C. Hawkins (Chairman), Minister-Counselor for Economic Affairs, American Embassy, London; Frank M. Shields, Chief, Commercial Policy Staff, Department of Commerce; Edgar B. Brossard, Commissioner, U. S. Tariff Commission; Edmund Kellogg, Secretary, Department of State.

Appearances listed for Monday, March 3, 1947, beginning 10:30 a. m.

Opening remarks
Harry C. Hawkins
American Unitarian Association
Merrill E. Bush
Providence Chamber of Commerce
A. H. Ferguson
Albert Lee
Massachusetts Fisheries Association, Inc.
Thomas D. Rice
Crompton & Knowles Loom Works
J. F. Molloy
New England Export Club, Inc.
J. F. Molloy et al.
Boston Women's Trade Union League
Mrs. Rose Norwood

Recess

Appearances listed for Monday, March 3, 1947, beginning at 2:30 p. m.

Martin S. Morton
Miss Lucy Killough
Alex Oppenheim
World Affairs Council of Rhode Island
New England Shoe & Leather Association
Maxwell Field
Rhode Island League of Women Voters
Nicholson File Company
Rhode Island Industrial Commission
Mr. Woodmancy
Philip L. McMahon
National Association of Consumers
Colston Warne

Recess

Appearances listed for Tuesday, March 4, 1947, beginning 10:30 a. m.

United Nations Council of Harvard
Stephen M. Schwebel
The National Association of Cotton Manufacturers
Fred W. Steele
Lewis R. Morley
Russell T. Fisher
Catholic War Veterans
Miss Ruth E. Manning
Dean Robert Stewart
Boston Young Women's Christian Association
Shoe and Leather Reporter
Fred J. Moynihan
Professor Goodrich
Massachusetts League of Women Voters

Recess

Appearances listed for Tuesday, March 4, 1947, beginning 2:30 p. m.

Joseph F. Lockett
Hospital Trust Company
Professor George N. Hahn
National Association of Wool Manufacturers
Arthur Besse
Women's Action Committee for Lasting Peace
Miss Sarah Wambaugh
Industrial Trust Company
Sanford Farkas
Norton Company
Herbert A. Stenton
Professor Joseph L. McDonald
Lawrence G. Brooks

Adjourn

INFORMAL HEARINGS ON THE PROPOSED CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION, HELD UNDER THE AUSPICES OF THE EXECUTIVE COMMITTEE ON ECONOMIC FOREIGN POLICY

Dates of Hearings:

Washington	Feb. 25–20, 1947
New York City	Feb. 27–28, 1947
Boston	Mar. 3– 4, 1947
Chicago	Mar. 3– 4, 1947
New Orleans	Mar. 3– 4, 1947
Denver	Mar. 10–11, 1947
San Francisco	Mar. 10–11, 1947

Agencies represented on the Executive Committee:
Department of State, Chairman.
Department of the Treasury.
Department of Agriculture.
Department of Commerce.
Department of Labor.
United States Tariff Commission.

CALENDAR OF APPEARANCES FOR CHICAGO

Place.—Room 582, United States Courthouse.
Time.—10:30 a. m. and 2:30 p. m., March 3 and 4, 1947.
Panel Members.—Donald D. Kennedy (Chairman), Chief, Division of International Resources, Department of State; George Bronz, Special Assistant to the General Counsel, Department of the Treasury; John M. Castles, Chief of British Commonwealth Division, Areas Branch, Office of International Trade, Department of Commerce; Willis C. Armstrong, Secretary, Department of State.

Appearances listed for Monday, March 3, 1947, beginning 10:30 a. m.

Opening remarks
Donald D. Kennedy
Federal Council of the Churches of Churches in America
Charles P. Taft
Trans-Atlas et Cie Ltd.
Henry G. Molnar
United Packinghouse Workers of America
Lyle Cooper
Illinois Federation of Women's Clubs
Mrs. Theodore S. Chapman
Congregational Christian Woman's Fellowship of Greater Chicago
Mrs. Matthew P. Gaffney
American Federation of State, County, and Municipal Employees
National Council of Jewish Women, Inc.
Mrs. Michael Levin
National Women's Trade Union League of America

Recess

Appearances listed for Monday, March 3, 1947, beginning 2:30 p. m.

National Cooperative Inc.
T. A. Tenhune
E. R. Bowen
The Young Women's Christian Association of Chicago
Mrs. Mitchell H. Dawson
Harnischfeger Corporation
F. Salditt
Illinois Manufacturers Association
Gaylor C. Whipple
W. H. Stanley
Illinois League of Women Voters
Mrs. W. Eugene Pharis
International Union of United Automobile, Aircraft, Agricultural Implement Workers of America
Women's Action Committee for Lasting Peace
Mrs. Paul Douglas
United States Glass Company
C. W. Carlson

Recess

Appearances listed for Tuesday, March 4, 1947, beginning 10:30 a. m.

Illinois Federation of Business and Professional Women's Clubs, Inc.
Miss Clara E. Lawrence or
Miss Celia Howard
The Flax and Fibre Institute of America
Howard D. Salins
Industrial Research Council of America
Dr. Derso Shybekay
American Association of University Women
Mrs. Dickson H. Leavens
Church Federation of Greater Chicago
National Association of Consumers
Miss Hazel Kirk

Adjourn

INFORMAL HEARINGS ON THE PROPOSED CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION, HELD UNDER THE AUSPICES OF THE EXECUTIVE COMMITTEE ON ECONOMIC FOREIGN POLICY

Dates of Hearings:

Washington	Feb. 25–26, 1947
New York City	Feb. 27–28, 1947
Boston	Mar. 3– 4, 1947
Chicago	Mar. 3– 4, 1947
New Orleans	Mar. 3– 4, 1947
Denver	Mar. 10–11, 1947
San Francisco	Mar. 10–11, 1947

Agencies represented on the Executive Committee:
Department of State, Chairman.
Department of the Treasury.
Department of Agriculture.
Department of Commerce.
Department of Labor.
United States Tariff Commission.

CALENDAR OF APPEARANCES FOR DENVER

Place.—Room 339 (Petit Jury Room), Post Office Building.
Time.—10:30 a. m. and 2:30 p. m., March 10 and 11, 1947.
Panel Members.—Donald D. Kennedy (Chairman), Chief, Division of International Resources, Department of State; George Brons, Special Assistant to the General Counsel, Department of the Treasury; John M. Castles, Chief of British Commonwealth Division, Areas Branch, Office of International Trade, Department of Commerce; Willis C. Armstrong, Secretary, Department of State.

Appearances listed for Monday, March 10, 1947, beginning 10:30 a. m.

Opening remarks
Donald D. Kennedy
Gardner-Denver Company
B. C. Essig
D. B. Seeley
Colorado Wool Marketing Association, Inc.
Newton Bowman
American Association for the United Nations, Inc.
W. W. Grant
Mrs. J. Burris Perrin
Women's Action Committee for Lasting Peace
Mrs. Mabel C. Costigan
American National Livestock Association
F. E. Mollin
John A. Reed
National Council of Jewish Women, Inc.
Mrs. Arthur Esserman

Recess

Beginning 2:30 p. m.

The Gates Rubber Company
Richard S. Nelson
American Association of University Women
Miss Elizabeth L. Fackt
Colorado Raw Fur Dealers Association
J. E. Isenhart
Leo Gladstone
The First Unitarian Church of Denver
The Reverend Rudolph W. Gilbert
Colorado League of Women Voters
Mrs. W. Lewis Abbott
Combined Metals Reduction Company
Otto Herres
National Wool Growers Association

Recess

Appearances listed for Tuesday, March 11, 1947, beginning 10:30 a. m.

Denver Exporter's Club
D. B. Seeley
Colorado Federation of Women's Clubs
Mrs. Edward Bain
Young Women's Christian Association
Representative of Public Affairs Committee
The Mountain States Beet Growers Marketing Association
Holly Sugar Corporation
C. M. Nicholson

Adjourn

INFORMAL HEARINGS ON THE PROPOSED CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION, HELD UNDER THE AUSPICES OF THE EXECUTIVE COMMITTEE ON ECONOMIC FOREIGN POLICY

Dates of Hearings:

Washington	Feb. 25–26, 1947
New York City	Feb. 27–28, 1947
Boston	Mar. 3– 4, 1947
Chicago	Mar. 3– 4, 1947
New Orleans	Mar. 3– 4, 1947
Denver	Mar. 10–11, 1947
San Francisco	Mar. 10–11, 1947

Agencies represented on the Executive Committee:
Department of State, Chairman.
Department of the Treasury.
Department of Agriculture.
Department of Commerce.
Department of Labor.
United States Tariff Commission.

CALENDAR OF APPEARANCES FOR NEW ORLEANS

Place.—International House Auditorium.
Time.—10:30 a. m. and 2:30 p. m., March 3 and 4, 1947.
Panel Members.—Clair Wilcox (Chairman), Director, Office of International Trade Policy, Department of State; John H. G. Pierson, Adviser to Assistant Secretary in Charge of Labor Relations, Department of Labor; Nathan Ostroff, General Counsel of the Office of International Trade, Department of Commerce; Robert P. Terrill, Secretary, Department of State.

Appearances listed for Monday, March 3, 1947, beginning 10:30 a. m.

Opening remarks
Clair Wilcox
The Honorable deLesseps S. Morrison
International House
Michael M. Mora, Director of World Trade Development
Rafael J. Urrela, Director of International Relations
Louisiana League of Women Voters
Mrs. Martha G. Robinson
Export Managers' Club of New Orleans
H. S. Renshaw, Inc.
N. A. Renshaw
Women's Action Committee for Lasting Peace
Mrs. Rodney Toups

Recess

Beginning 2:30 p. m.

Young Men's Business Club of New Orleans
T. P. Diaz, Foreign Trade Bureau
American Association of University Women
Mrs. Allen S. Hackett
American Cotton Shippers' Association
Louisiana Federation of Women's Clubs
Mrs. Samuel Levy.
New Orleans Cotton Exchange
First Unitarian Church
Myles Salt Company, Ltd.
Edward B. Benjamin

Recess

Appearances listed for Tuesday, March 4, 1947, beginning 10:30 a. m.

San Antonio Chamber of Commerce
National Council of Jewish Women, Inc.
Mrs. Nat Friedler
Birmingham Chamber of Commerce
Mid-Continent World Trade Council
Theodore Brent
Mississippi Shipping Company
R. S. Hecht
Board of Commissioners of the Port of New Orleans
Hemisphere Trading Company, Inc.
Joseph M. Marrone

Adjourn

INFORMAL HEARINGS ON THE PROPOSED CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION, HELD UNDER THE AUSPICES OF THE EXECUTIVE COMMITTEE ON ECONOMIC FOREIGN POLICY

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Agencies represented on the Executive Committee:
- Department of State, Chairman.
- Department of the Treasury.
- Department of Agriculture.
- Department of Commerce.
- Department of Labor.
- United States Tariff Commission.

CALENDAR OF APPEARANCES FOR NEW YORK CITY

Place.—North Ballroom, Eighth Floor, Hotel Astor.
Time.—10:30 a. m. and 2:30 p. m., February 27 and 28, 1947.
Panel Members.—Willard L. Thorp (Chairman), Assistant Secretary, Department of State; Edgar B. Brossard, Commissioner, U. S. Tariff Commission; Thomas C. Blaisdell, Jr., Assistant to the Secretary of Commerce for International Trade; Ellsworth Carlson, Secretary, Department of State.

Appearances listed for Thursday, February 27, 1947, beginning 10:30 a. m.

Opening remarks
Willard L. Thorp
National Foreign Trade Council, Inc.
John Abbink
Charles R. Carroll
American Watch Assembler's Association, Inc.
National Council of American Importers, Inc.
The Cotton-Textile Institute, Inc.
Dr. C. T. Murchison
The Association of Marine Underwriters of the United States
Henry H. Reed
The Olive Oil Association of America, Inc.
The American Lace Manufacturers Association;
The Amalgamated Operatives of America—Levers Branch
C. B. J. Molitor
League of Women Voters of the United States
Fred Leighton, Inc.
Fred Leighton
Custom House Guide
John F. Budd

Recess

Appearances listed for Thursday, February 27, 1947, beginning 2:30 p. m.

Federated Association of World Traders, Inc.
H. F. Cook
American Spice Trade Association, Inc.; Association of Food Distributors, Inc.;
Catz American Co., Inc.
I. B. Catz
Chamber of Commerce and Board of Trade of Philadelphia, Foreign Trade Bureau
The National Federation of Textiles, Inc.
American International Underwriters Corporation
Harold Bernstein & Co., Inc.
Harold Bernstein
New York Women's Trade Union League
Tapioca Institute of America
Edward J. Steiger
The American Middle-East Trading Co.
Samuel Cornfield
Church Peace Union
John R. Inman
The National Federation of Business and Professional Women's Clubs, Inc.
United Atlas Co., Inc.
Paul K. Carter
National Council of Jewish Women, Inc.
Mrs. Lawrence Freeman

Recess

Appearances listed for Friday, February 28, 1947, beginning 10:30

Overseas Automotive Club, Inc.
W. H. Lukens
Commerce and Industry Association of New York, New York Board of Trade, Inc., International Trade Section
Committee of five
New York Board of Trade, Inc., Insurance Section
Charles S. Ashley
Arthur Snyder
Thomas Watters, Jr.
W. D. Blood and Company, Inc.
J. C. Gallagher
George M. Stiegler
Women's Action Committee for Lasting Peace
Dr. Emily Hickman
The Burlap and Jute Association
Joseph A. Manasseh or Cecil H. Coryat
Foreign Traders Association of Philadelphia, Inc.

Recess

Appearances listed for Friday, February 28, 1947, beginning 2:30 p. m.

Schenley International Corporation
Joseph L. Andrews
International Apple Association
Samuel Fraser
The Export Managers Club
J. C. Tweedell
Geo. E. Mallinson Importing Co., Inc.
William M. Brown
Interchemical Corporation
C. A. Richards
Van Lear Woodward & Co., Inc.
The Kapok Association
E. S. Ullman-Allied Co., Inc.
I. Bergner
American Arbitration Association
Martin Domke
Harrison H. Wheaton
Department of Christian Social Relations of the Woman's Division, Methodist Church
Miss Eleanor Neff
Citizens Conference on International Economic Union
Eldridge Haynes

Adjourn

INFORMAL HEARINGS ON THE PROPOSED CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION, HELD UNDER THE AUSPICES OF THE EXECUTIVE COMMITTEE ON ECONOMIC FOREIGN POLICY

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Denver	Mar. 10–11, 1947
San Francisco	Mar. 10–11–12, 1947

Agencies represented on the Executive Committee:
Department of State, Chairman.
Department of the Treasury.
Department of Agriculture.
Department of Commerce.
Department of Labor.
United States Tariff Commission.

CALENDAR OF APPEARANCES FOR SAN FRANCISCO

Place.—U. S. Customs Court, Room 417, Appraisers Building, 630 Sansome Street.

Time.—10:30 a. m. and 2:30 p. m., March 10, 11 and 12, 1947.

Panel Members.—Clair Wilcox (Chairman), Director, Office of International Trade Policy, Department of State; Nathan Ostroff, General Counsel of the Office of International Trade, Department of Commerce; John H. G. Pierson, Adviser to Assistant Secretary in Charge of Labor Relations, Department of Labor; John P. Gregg, Commissioner, U. S. Tariff Commission; Robert P. Terrill, Secretary, Department of State.

Appearances listed for Monday, March 10, 1947, beginning at 10:30 a. m.

Opening remarks
Clair Wilcox
San Francisco Chamber of Comerce
Dr. John B. Condliffe
California Association of Port Authorities
Young Women's Christian Association
Mrs. Warner Clark
Canners League of California
M. A. Clevenger
Pacific Coast Coffee Association
Bay Area Maritime Committee
Oakland Chamber of Commerce
American Association of University Women
Mrs. Forster R. Smith
San Francisco Clearing House Banks
Lloyd Graybiel
Oakland Foreign Trade and Harbor Club

Recess

Appearances listed for Monday, March 10, 1947, beginning 2:30 p. m.

Women's Action Committee for Lasting Peace
Mrs. Arlington C. White
Oregon Nut Growers, Inc.
Foote, Cone and Belding
Don Belding
California Almond Growers Exchange
United States Hop Growers Association
Pacific Coast Association of Port Authorities
F. H. Marvin
Dried Fruit Association of California
H. C. Dunlap
World Trade Center, Inc.
O. C. Hansen
Marine Exchange of the San Francisco Chamber of Commerce
American Marketing Association, San Francisco Chapter

Recess

Appearances listed for Tuesday, March 11, 1947, beginning 10:30 a. m.

Foreign Trade Association of the San Francisco Chamber of Commerce
William L. Montgomery
Pacific American Steamship Association
National Council of Jewish Women, Inc.
Mrs. Henry Newburgh
Northwest Nut Growers
A. C. Jacobson
California Walnut Growers Association
Junior World Trade Association of the San Francisco Chamber of Commerce
Propeller Club of the United States
Northwest Horticultural Council
Frank W. Taylor
Structural Engineers Association of Northern California
San Francisco Bay Area World Trade Promotion Committee of the San Francisco Bay Area Council

Recess

Appearances listed for Tuesday, March 11, 1947, beginning 2:30 p. m.

Bank of America
J. W. Tapp
California Federation of Women's Clubs
Poultry Producers of Central California
Facts Consolidated
Cherry Growers and Industries Foundation
Robert E. Shinn
Ernest H. Wiegand
Robert M. Kerr
California League of Women Voters
Mrs. Robert Gordon
The Golden Gate Paint, Varnish and Lacquer Association
C. H. Sondhaus
Down Town Association
Export Managers Association of San Francisco
J. F. Marias
The Pacific Northwest Trade Association

Recess

Appearances listed for Wednesday, March 12, 1947, beginning 10:30 a. m.

Business and Professional Women's Club of San Francisco, Inc.
Wine Institute
Purchasing Agents' Association of Northern California, Inc.
Frank C. Kugelberg
National Association of Consumers
Florence Wyckoff
San Francisco Junior Chamber of Commerce
Henry B. King
Pan American Association, Inc.
Chesley M. Walters
Advertising Association of the West
Pacific Traffic Association of San Francisco, Inc.
M. J. McCarthy
Rice Growers Association of California
National Women's Trade Union League of America
Mrs. Amanda Schlesinger

Adjourn

INFORMAL HEARINGS ON THE PROPOSED CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION, HELD UNDER THE AUSPICES OF THE EXECUTIVE COMMITTEE ON ECONOMIC FOREIGN POLICY

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Denver	Mar. 10–11, 1947
San Francisco	Mar. 10–11, 1947

Agencies represented on the Executive Committee:
Department of State, Chairman.
Department of the Treasury.
Department of Agriculture.
Department of Commerce.
Department of Labor.
United States Tariff Commission.

CALENDAR OF APPEARANCES FOR WASHINGTON, D. C.

Place.—Room 474, State Department Building.
Time.—10:30 a. m. and 2:30 p. m., February 25 and 26, 1947.
Panel Members.—Willard L. Thorp (Chairman), Assistant Secretary, Department of State; Andrew Overby, Special Assistant to the Secretary, Department of the Treasury; David A. Morse, Assistant Secretary, Department of Labor; Leslie A. Wheeler, Director, Office of Foreign Agricultural Relations, Department of Agriculture; Lynn R. Edminister, Vice Chairman, U. S. Tariff Commission; Thomas C. Blaisdell, Jr., Assistant to the Secretary of Commerce for International Trade; Ellsworth Carlson, Secretary, Department of State.

Appearances listed for Tuesday, February 25, 1947, beginning, 10:03 a. m.

Opening remarks
Willard L. Thorp
Chamber of Commerce of the United States of America
Tobacco Association of United States
J. C. Lanier
American Association of University Women
Dr. Helen Dwight Reid
Friends Committee on National Legislation
National Renderers Association
Dr. John L. Coulter
The American Tariff League, Inc.
Richard Anthony

Recess

Beginning 2:30 p. m.

Congress of Industrial Organizations
Industrial Union of Marine and Shipbuilding Workers of America
John Green
National Women's Trade Union League of America
Mrs. Margaret F. Stone
National Federation of Business and Professional Women's Clubs
Miss Sally Butler
National Peace Conference
United States Pipe and Foundry Company
Robert Rosamond

Recess

Appearances listed for Wednesday, February 26, 1947, beginning 10:30 a. m.

The Council for Social Action of the Congregational Christian Churches of the United States of America
Vernon H. Holloway
CIO Maritime Committee
American Cotton Shippers Association
Independent Petroleum Association of America
League of Women Voters of the United States
American Veterans of World War II
Ray Sawyer
United Electrical, Radio and Machine Workers of America
National Council of Jewish Women, Inc.
Mrs. Joseph Low
Women's Action Committee for Lasting Peace
Mrs. Laura Puffer Morgan

Recess

Beginning 2:30 p. m.

Food for Freedom, Inc.
Harold Weston
Lorenzo K. Wood
Textile Machine Works
R. N. Apprich
Paul Kroener
General Federation of Women's Clubs
Mrs. LaFell Dickinson
The Catholic Association for International Peace
Washington Federation of Churches

Adjourn

HEARINGS PROCEDURE

Several persons and organizations notified the Executive Secretary of the Executive Committee on Foreign Economic Policy of their intention to appear at the hearings after the master schedule for each city had been completed. In each case they were so informed and asked to make their intentions known to the Department of Commerce field representative in general charge of local hearings arrangements.

The Secretary of each Panel, therefore, was instructed, upon arrival in the hearings city, to get in touch with the local Department of Commerce representative and to secure from him the names of any persons who might not have notified the Committee in time, together with the names of any others who had given no written indication of their desire to appear, but who nevertheless wanted to present their views. In each case the Secretary of the Panel amended the schedule of appearances to accommodate these persons. In most cases it was possible to work additional persons into the pre-arranged two-day schedule. In San Francisco, however, it was necessary to arrange for an additional half-day session.

The time allotted to each person varied from city to city, being determined by the Panel Secretary after the total number of persons to be heard was known. Moreover, there was considerable variation in the length of time required by witnesses; some required no more than seven or ten minutes; most needed between fifteen and twenty minutes; a few required the greater part of an hour for presentation of their views. In all cases, in order to secure greatest benefit from the hearings, an effort was made to hear everything any person had to say.

Presentation of oral views varied in character also. Some persons read from prepared statements; others spoke from notes. Many used a part of their scheduled time to raise questions relating to the Charter with Panel members. Informality and freedom of expression were encouraged. In only one respect was testimony limited. Because of their limited jurisdiction, the Panels did not entertain discussion relating to specific tariffs on specific commodities.

At the end of each person's statement, Panel members frequently asked questons to clarify issues raised or made statements to correct misunderstanding.

SUMMARY OF APPEARANCES

Two hundred and twenty-one persons, representing almost every type of economic, civic, labor and religious organization, orally presented their views on

the proposed Charter during the course of the hearings. San Francisco led the list with forty-eight personal appearances. New York was next with forty-five. Others followed as indicated in Table I:

TABLE I.—*Distribution of organizations and persons presenting oral views at ITO hearings, February 25–March 12, 1947*

Organizations Appearing	Cities							Total
	Wash..	N. Y.	Boston	Chicago	N. O.	Denver	S. F.	
Bus. & Prof. Org. (inc. Co-op & Farm groups)	8	27	9	7	12	7	37	107
Indiv. Bus. Est.	.....	7	8	2	4	2	1	24
Civic Org.	8	5	6	6	5	6	5	41
Religious Org.	4	1	2	2	.....	1	1	11
Labor Org.	4	3	2	4	1	2	1	17
Consumers Org.	1	1	1	1	.....	1	1	6
Veterans Org.	1	.....	1	.....	.....	.....	.....	2
Miscellaneous	2	1	5	.....	2	1	2	13
Totals	28	45	34	22	24	20	48	221

Business and professional associations (including Cooperative and Farm organizations) were most numerously represented at the hearings, with 107 persons appearing in their behalf. Civic organizations, including such organizations as the National League of Women Voters and the American Association of University Women, were represented by 41 persons. Individual business establishments were next with 24 representations. Representatives of labor, consumer, religious and veterans organizations also appeared as indicated in the table above. Other presentations were made by a mayor, educators, students, and Port Authority representatives.

Witnesses appeared on behalf of fifty national organizations. Of these, twenty-seven were business and farm organizations; twenty-three were civic, labor, consumer, religious and veterans organizations. The entire list of national organizations is included in Attachment 3.

Geographically, witnesses were drawn from twenty States[1] and the District of Columbia.

WRITTEN VIEWS

Only five detailed written briefs relating to the proposed Charter were submitted to the Executive Committee on Foreign Economic Policy on behalf of organizations which did not appear at the hearings to present their views orally.[2] There were in addition, however, seventeen letters, resolutions and telegrams which were sent in as a result of the invitation in the original press release announcing the hearings. In sum, there were only twenty-two persons and organizations who chose to present their views in writing rather than in person.

All of the written communications endorsed the objectives and general structure of the proposed International Trade Organization. Four of the five written briefs, however, made specific suggestions for modification of the proposed Charter. The remaining brief and the other written communications endorsed the proposed ITO without qualification. Most of the letters from individuals were short and did not indicate the degree to which the endorsement resulted from careful study of the proposed Charter.

ATTITUDES EXPRESSED TOWARD PROPOSED CHARTER

Aside from the indication of widespread support from every type of organization for the proposed Charter for an International Trade Organization, the most impressive revelation at the hearings was the amount of careful study that witnesses had given to the proposed Charter. Critical evaluation was evident and thoughtful suggestions were contained in the testimony of the vast majority

[1] Alabama, California, Colorado, Connecticut, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Washington, and Wisconsin.

[2] Tanner's Council of America, Inc., New York City; American Chamber of Commerce of Cuba, Habana; American Farm Bureau Federation, Chicago, Illinois; Board of State Harbor Commissioners, Port of San Francisco; Stanwick and Company, Worcester, Massachusetts.

of persons and organizations who presented their views. There were, to be sure, many suggestions and criticisms but for the most part these were made in the spirit of improving the proposed Charter.

As indicated in Table 2, two hundred and forty-three organizations and persons expressed their views on the proposed Charter orally or in writing. Of these two hundred and seven endorsed the principles and objectives of the proposed Charter. Over one hundred and fifty endorsed the Charter almost without qualification. Only fifteen witnesses took a position in general opposition to the Charter.

TABLE 2.—*Attitudes expressed toward proposed ITO charter at hearings, February 25–March 12, 1947 (by organizations*[1])

Organizations Appearing at Hearings	Attitudes Expressed				
	Gen. Approval—Few, if any, suggestions	Gen. Approval—Specific Suggestions, and/or reservations	No direct approval or disapproval—Suggestions on special interests	General Opposition	Total
Business and Prof. Organs. (incl. Co-op. and Farm Organs.)	55	29	17	13	114
Individual Bus. Establishments	18	5	2	3	28
Civic Organizations	41	1	----	----	42
Labor Organizations	10	3	----	----	13
Religious Organizations	17	1	----	----	18
Consumer Organizations	3	3	----	----	6
Veterans Organizations	2	----	----	----	2
Miscellaneous[2]	18	1	1	----	20
Total	164	43	20	16	243

[1] Includes 22 briefs, resolutions and other communications from persons & organizations not appearing at hearings.

[2] Includes Mayor of New Orleans, educators, Port Authority representatives, students, & unclassified individuals.

General approval of the proposed Charter, with little or no qualification came from representatives of almost every type of economic and civic organization. In this group, individual business establishments and business and farm organizations were most numerous—73 or 164—but equally strong support was given by civic, religious, labor, consumer and veterans' organizations. The testimony of most of this group indicated that their statements were prepared only after careful study of the document under consideration.

The character of endorsement given the proposed Charter by this group is illustrated by the statement of Charles P. Taft, President and speaking on behalf of the Federal Council of Churches of Christ in America. Among other things, Mr. Taft said:

> "Those who sneer at the State Department's actual program offer none except the adoption of the methods of State Foreign Trading and bilateral 'Yankee' deals which were developed if not invented by the Nazis, for the purpose of waging economic warfare during the period between the Great Wars.
>
> "That alternative is in effect the adoption of state socialism in foreign trade, and will drive us to a considerable measure of state socialism at home.
>
> "The middle ground is the only real possibility, a goal of many-directional commerce around the world as free as practicable, of private and governmental restrictions, but conceding whatever is shown to be absolutely necessary to meet the actual situation of these war devastated economies of our allies and our friends.
>
> "The proposed International Trade Organization is just that, and is therefore in effect, the only possible way in which we can go."

Forty-three persons expressed general approval of the proposed Charter on behalf of their organizations, but made several specific suggestions or expressed reservations with respect to certain aspects of the Charter. Twenty-nine of these represented business and farm associations. In almost all of these cases, the

suggestions were designed to implement the principles and objectives of the Charter; not to weaken them. The American Farm Bureau Federation, for example, pointed to its long record in favor of international economic cooperation and cited in support a resolution passed by their annual meeting held in San Francisco in December 1946. "I am convinced", President O'Neal said, "that the establishment of this proposed International Trade Organization offers an opportunity to conduct international trade more nearly on a basis in line with our ideals of free enterprise than could be possible otherwise".

President O'Neal went on, however, to make a number of thoughtful suggestions with respect to the Charter. He indicated, for example, his organization's belief that "the Charter should be drawn in such a manner that export subsidies on certain basic agricultural products could be used in the event that it is necessary to prevent widespread chaos in some of our basic agricultural industries." He expressed pleasure at the inclusion of Chapter VII which deals with inter-governmental commodity arrangements, but raised a question about the desirability, in Article 51, of giving importing countries an equal voice with exporting countries. Mr. O'Neal expressed concern about the little emphasis in the proposed Charter upon using non-governmental groups in an advisory capacity. On the whole, the American Farm Bureau Federation, like others in this group, supported the program, while at the same time making suggestions for its improvement.

A more complete list of suggestions for and criticisms of the proposed Charter, from all who presented their views, is included in this report as Attachment 3.

A third group of persons, seventeen in all, had little or nothing to say by way of approval or disapproval of the proposed Charter, but most of them expressed some concern about the possible impact of the proposed International Trade Organization on their own industries. A few of this group suggested the inclusion or more explicit coverage of their own interests.

The California Walnut Growers Association, for example, in its testimony said "The basic assumption [of the ITO] is that protective tariffs are evils. This has serious implications for the American nut industries and many others. Like the reciprocal trade treaties, which always contemplate tariff cuts and never any increases, ITO is to be a tariff reducing agency . . . . The American walnut industry fears ITO because of the very obvious threat to its tariff protection."

The National Bankruptcy Conference suggested "that the International Trade Organization has a unique opportunity at this time to write into its charter a provision at one stroke . . . establishing equal treatment for all creditors in the courts of nations participating in the organization or subscribing to its principles".

Sixteen persons expressed general opposition to the proposed Charter. Thirteen of these were business associations; three were representatives of individual establishments. Eight of the sixteen represented textile interests; three, food products; one, shoe and leather; one, petroleum; one, exporter and importer; one, shipping; and one, a more general organization: the American Tariff League (see Attachment 4).

Mr. Henry D. Molnar, representing Trans-Atlas et Cie, Ltd., criticized the Charter as impractical in all aspects and suggested that a new Charter be formulated by representatives of Business and Banking. The American Lace Manufacturers Association referred to Chapter VII on inter-governmental commodity agreements as a plan for world collectivism.

The American Tariff League described the Charter as "voluminous, wordy, difficult to study and comprehend, and frequently ambiguous and lacking in clarity." Further, the League observed, "the Charter is confusing. It sets forth many basic principles, and then proceeds to riddle them with exceptions, so that it ends by blessing not only the desirable world trade practices, but virtually all the undesirable ones as well."

III. Evaluation

Wholly aside from the great preponderance of support for the proposed Charter for an International Trade Organization demonstrated at the hearings, the Executive Committee on Economic Foreign Policy has been gratified by the results of the hearings. Two or three things stand out. In the first place, interest in constructive measures to assure international economic cooperation was revealed as considerably greater than had been supposed. From this flowed the second revelation of importance; most of the persons who appeared at the hearings had studied the proposed Charter with great care. Third, in every

city visited by the hearings Panels, deep satisfaction was expressed that the Charter was taken to the public for examination and criticism at this relatively early stage of its development. Finally, and most important, the many thoughtful suggestions and criticisms received indicated, as was expected, that there remains room for improvement in the proposed Charter. It was, of course, exactly this that inspired the hearings in the first place.

It now remains for the Executive Committee on Economic Foreign Policy to examine and evaluate the suggestions and criticisms received at the hearings.

IV. Suggestions for Changes in Proposed Charter for an International Trade Organization

(Based on Testimony Presented at Public Hearings, Briefs, and Correspondence)

PRELIMINARY DRAFT[1]

TABLE OF CONTENTS

CHAPTER I. PURPOSE

Page

Article 1. General Purposes of the Organization 939

CHAPTER II. MEMBERSHIP

Article 2. Membership 940

CHAPTER III. EMPLOYMENT

Article 3. Relation of Employment to the Purposes of Organization 940
Article 4. The Maintenance of Domestic Employment 940
Article 5. [illegible]3 Development of Domestic Resources and Productivity 940
Article 6. Fair Labor Standards 941
Article 7. The Removal of Maladjustments in the Balance of Payments 941
Article 8. Safeguards for Countries Subject to External Deflationary Pressure 941
Article 9. Consultation and Exchange of Information on Matters Relating to Employment 941

CHAPTER IV. ECONOMIC DEVELOPMENT

Article 10. Importance of Economic Development 941
Article 11. Plans for Economic Development 941
Article 12. Means of Economic Development 942
Article 13. Governmental Assistance to Economic Development 943

CHAPTER V. GENERAL COMMERCIAL POLICY

Article 14. General Most-Favored-Nation Treatment 943
Article 15. National Treatment on Internal Taxation and Regulations 943
Article 16. Freedom of Transit 945
Article 17. Anti Dumping and Countervailing Duties 945
Article 18. Tariff Valuations 945
Article 19. Customs Formalities 945
Article 20. Marks of Origin 945
Article 21. Publication and Administration of Trade Regulations—Advance Notice of Restrictive Regulations 946

CHAPTER V. GENERAL COMMERCIAL POLICY—continued

Page

Article 22. Information, Statistics and Trade Terminology 946
Article 23. Boycotts 946
Article 24. Reduction of Tariffs and Elimination of Preferences 946
Article 25. General Elimination of Quantitative Restrictions 947
Article 26. Restrictions to Safeguard the Balance of Payments 947
Article 27. Non-Discriminatory Administration of Quantitative Restrictions 947
Article 28. Exceptions from the Rule of Non-Discrimination 947
Article 30. General Undertaking Regarding Subsidies—Elimination of Export Subsidies—Exceptions 947
Article 31. Non-Discriminatory Administration of State Trading Enterprises 948
Article 32. Expansion of Trade by State Monopolies of Individual Products 948
Article 33. Expansion of Trade by Complete State Monopolies of Import Trade 948
Article 34. Emergency Action on Imports of Particular Products 948
Article 36. Contractual Relations with Non-Members—Treatment of Trade of Non-Members 948
Article 37. General Exceptions to Chapter V 948
Article 38. Territorial Application of Chapter V—Customs Unions—Frontier Traffic 948

CHAPTER VI. RESTRICTIVE BUSINESS PRACTICES

Article 39. Policy Toward Restrictive Business Practices 949
Article 40. Procedure with Respect to Complaints and Conferences 949
Article 42. Obligations of Members 949
Article 43. Supplementary Enforcement Arrangements 949
Article 44. Continued Effectiveness of Domestic Measures against Restrictive Business Practices 949
Article 45. Exceptions to the Provisions of this Chapter 950

[1] Suggestions have been briefed and grouped together; those of a general character have not been included, and a few suggestions which were omitted will be included in the revised draft which will be submitted as soon as the transcripts from New Orleans and San Francisco have been received and analyzed.

TABLE OF CONTENTS—Continued

CHAPTER VII. INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS

	Page
Article 47. Objectives of Inter-Governmental Commodity Arrangements	950
Article 49. Commodity Conferences	950
Article 50. Relations with Specialized Agencies	950
Article 51. General Principles of Inter-Governmental Commodity Arrangements	950
Article 52. Circumstances Governing Use of Regulatory Agreements	951
Article 53. Additional Principles Governing Regulatory Agreements	951
Article 54. Administration of Regulatory Agreements	951
Article 55. Provision for Initial Terms, Review, and Renewal of Regulatory Agreements	951
Article 58. General Undertaking by Members	952
Article 60. Definitions	952

CHAPTER VIII. ORGANIZATION

	Page
Article 61. Functions of the Organization	952
Article 63. Membership	952
Article 64. Voting	953
Article 67. Interim Tariff Committee	953
Article 68. Membership	953
Article 71. Powers and Duties	953
Article 73. Composition and Procedure	953
Article 75. Functions of the Commission on Commercial Policy	953
Article 76. Functions of the Commission on Business Practices	953
Article 81. Relations with Other Organizations	953
Article 85. Amendments to Charter	953
Article 86. Interpretation and Settlement of Disputes	953
Article 88. Entry into Force	954
Article 89. Withdrawal and Termination	954
New Article (Re Expulsion of Members)	954

Suggestions for Changes in Proposed Charter for an International Trade Organization

CHAPTER I. PURPOSE

Article 1. General Purposes of the Organization

1. The American Foreign Insurance Association recommends that paragraph 4 of Article 1 be amended to read as follows:

> "In general to promote national and international action for the expansion of the production, exchange, and consumption of goods, *for the development, establishment, and operation of commercial services and facilities useful or necessary to international trade and commerce*, for the reduction of tariffs and other trade barriers, and for the elimination of all forms of discriminatory treatment in international commerce *including the commercial and economic services and facilities useful or necessary thereto;* thus contributing to an expanding world economy, to the establishment and maintenance in all countries of high levels of employment and real income, and to the creation of economic conditions conducive to the maintenance of world peace."

2. Agreement on Article 1 is fundamental to whole ITO and should be placed as one of first items on agenda of the meeting in Geneva. Feels omission of paragraph 3 of Chapter I (Purposes) in the "Proposals" greatly weakens redraft. (Far East-America Council of Commerce and Industry.)

3. The American Tariff League recommends that the phrase "for the reduction of tariffs and other trade barriers" in paragraph 4 should be modified so that the clause will not imply that tariffs are trade barriers. This might be accomplished, the League suggests, by changing the wording in one of the following ways:

A. "For the reduction of unnecessary tariffs and trade barriers".

B. "For the reduction of trade barriers and unnecessary tariffs".

4. The National Foreign Trade Council points out that the purposes as set forth in the Suggested Charter no longer parallel the revised content of the Chapters which follow. Because of the close relation of the general statement of purposes to the organizational and procedural matter, the Council recommends that this Chapter, Chapter II and Chapter VIII, together with procedural provisions from other Chapters, should be consolidated into a single chapter which would be largely procedural. It is suggested that paragraphs 1 and 5 of Article 1 be merged. The Council also points out that there is nothing in this statement of purposes which would indicate that the Organization is committed under certain provisions of Chapters V, VI and VIII to a positive program of implementing by collective action multilateral commitments given by Members. The Council regrets that "access by all Members on equal terms to the raw materials of the world" is not set forth as one of the objectives. On the whole, however, the Council says that the statement of purposes is entitled to approval and support.

5. The International Apple Association favors "the inclusion in the purposes of a positive declaration in behalf of the maintenance of private initiative and enterprise in world trade." (Gillette Safety Razor Company also desires this.)

6. The Harnischfeger Corporation questioned the reasons for the enclosure of this Article in brackets and stated that this implied that the purposes of this Organization had not been discussed or agreed upon at London.

CHAPTER II. MEMBERSHIP

Article 2. Membership

The National Foreign Trade Council feels that it would be desirable to "spell out unequivocally the rule that no country is released from its obligations except by termination of its membership in the Organization, as provided in the Charter." The Council points out that under several provisions, a Member which does not live up to its obligations and against which the ITO applies sanctions may withdraw from the Organization on short notice. On the other hand, a nation living up to its obligations cannot withdraw until three years after the Charter enters into effect, and then only upon six months' notice. In other words, an irresponsible Member is in a better position to withdraw than a Member with good standing. All provisions regarding termination of membership should be assembled in one place.

CHAPTER III. EMPLOYMENT

General

1. The National Foreign Trade Council opposes the inclusion of this Chapter in the Charter. It is the function of private enterprise rather than of government to provide employment. "We have a series of loosely related stipulations, each so qualified that one can neither rely upon them nor be sure that others will not do so." The idea that it was the function of government to provide full employment was rejected in the Employment Act of 1946. (The International Trade Section of the New York Board of Trade, and Mr. G. C. Whipple and Mr. W. H. Stanley of the Illinois Manufacturers Association also recommended the deletion of the Chapter.)

2. The American Foreign Insurance Association suggests that this Chapter be rewarded so as to limit the ITO's functions, with respect to employment, to consultation and exchange of information.

Article 3. Relation of Employment to the Purposes of Organization

1. Place period after "Members," line 4, and omit what follows. (U. S. Chamber of Commerce.)

2. The National Foreign Trade Council feels that it is unrealistic to pretend that balance of payments problems of other countries are, or will be, attributable to measures taken by this country. Economies short of foreign exchange must ultimately make their own adjustments.

3. The representative of the American Tariff League feels that the second paragraph should be clarified so as to make sure that there will be no interference with domestic procedures. (Same by American Lace Manufacturers Association.)

Article 4. The Maintenance of Domestic Employment

1. The representative of the American Tariff League does not like the words "full and productive employment." He suggests that it would be better to use the wording of paragraph 1 of Article 3: "the achievement and maintenance in each country of useful employment opportunities for those able and willing to work."

2. The National Foreign Trade Council recommends the deletion of this Article. "If it means anything, then it is not a commitment which our representatives are in any way authorized to give. If it means nothing or little * * * then we are engaging in an attempt to delude those who may place some reliance on the commitment."

3. Mr. Otto Herres, in behalf of the Mining Associations of Colorado, New Mexico, Arizona, Montana, and Utah, criticized Article 4 because it implies the use of compulsory labor.

Article 5. The Development of Domestic Resources and Productivity

1. The National Foreign Trade Council agrees "wholeheartedly with the objective expressed in this Article." It suggests however that the Article should be assimilated with Article 10 in the following Chapter.

Article 6. Fair Labor Standards

1. The representative of the Catholic Association for International Peace suggests that the brief reference to labor standards should be strengthened. He suggests "that the ITO should include the code of the ILO in its Charter, and should seek to enforce it in the trade relations of the world." (Also for strengthened Article and Chapter, Mr. Lyle Cooper of United Packing House Workers of America.)

2. The National Foreign Trade Council feels that the ITO should not deal with this matter, since the international trade implications of fair labor standards are at most secondary to their social significance. (Also opposed to inclusion—Mr. Henry G. Molnar of Trans-Atlas et cie., Ltd.)

Article 7 The removal of Maladjustments in the Balance of Payments

1. The National Foreign Trade Council says "if this Article means anything it means too much; if it means nothing we should not offer it as an inducement which will prove an illusion and a disappointment." With respect to balance of payments, the competence of the ITO would seem to be inferior to that of the International Monetary Fund.

2. Article is so vague and ambiguous that it might be taken as requiring the United States to "underwrite the righting of the problems of the world." (National Association of Wool Manufacturers, Cotton Textile Institute, and Foreign Traders Association of Philadelphia.)

Article 8. Safeguards for Countries Subject to External Deflationary Pressure

1. The American Tariff League feels that the language of this Article is vague. Says that nations should retain their rights to safeguard their economies, and that "it is unnecessary here to assume that they must say that that right has been granted (presumably to the ITO) and must be transferred back to them."

2. The National Foreign Trade Council does not feel that this Article is necessary in view of the other provisions in the Charter permitting relief to Members who can make out a case of hardship. This Article deals primarily with disequilibrium, with respect to which the Fund is more competent than the ITO. (Also Cotton Textile Institute on grounds of vagueness.)

Article 9. Consultation and Exchange of Information on Matters Relating to Employment

1. The National Foreign Trade Council regards this Article as superfluous. Suggests that the ITO, in the interests of economy, should avail itself of facilities and activities of the other agencies giving their attention to this matter.

2. Mr. Otto Herres, in behalf of the Mining Associations of Colorado, New Mexico, Arizona, Montana, and Utah, expressed concern over concerted action on the part of intergovernmental organizations in the field of employment policies as possibly involving intervention in the internal affairs of other nations.

CHAPTER IV. ECONOMIC DEVELOPMENT

Article 10. Importance of Economic Development

1. The National Foreign Trade Council points out that since more highly developed economies are usually better customers, it cannot disagree with the substance of this Article. It suggests, however, that the "essential validity and reality of the Article would be improved if the substantive portions of Articles 12 and 13 were moved over into this Article, as they are really qualifications of the generalities stated here." To round out the thought of the Article, it is suggested that it should be stated that industrialization "is by no means a cure-all for economic ills but is beneficial only when realistically adjusted or limited to the capital, resources, and skills of a particular people." The Article would also be improved if reference were made more specifically "to the development of basic resources, of utilities and of transport, as the logical background of secondary industry, without which it is usually inefficient and costly to the point of requiring 'protection' over unduly long periods."

Article 11. Plans for Economic Development

(Par. 3)

This paragraph should be deleted for the following reasons:

A. It might require the U. S. to make available to other Members its atomic and aviation plans;

B. this function would be inappropriate to the ITO;

C. providing technical assistance should be the sole function of private enterprise, not Government.
(Foreign Traders Association of Philadelphia, National Association of Wool Manufacturers, National Foreign Trade Council, American Tariff League, Cotton Textile Institute, U. S. Chamber of Commerce, Mining Associations of Colorado, New Mexico, Arizona, Montana and Utah.)

Article 12. Means of Economic Development

(*Par. 1*)

The National Foreign Trade Council suggests that there are other prerequisites to economic development such as power and transportation which have not been listed in the first paragraph.

(*Par. 2*)

The Foreign Traders Association of Philadelphia, Inc., feels that paragraph 2 might obligate the United States to share with other countries its information on atomic and aviation development.

(*Par. 3*)

1. Some limitation must be placed upon this paragraph since "within the limits of their power to do so" is not sufficiently clear. (U. S. Chamber of Commerce and National Association of Wool Manufacturers.)

2. This paragraph implies that it might be the function of an international organization to provide the facilities listed in the Article. Only the Bank and the FAO are qualified to do this, and then only to a limited extent. (National Foreign Trade Council.)

3. Loans should be available under this Article, only under the following conditions: (a) Preference should be given to countries which are actually democratic; (b) loans should not favor the development of enterprises at the expense of U. S. economy (this argument also made by American Lace Manufacturers Association and Amalgamated Lace Operators of America); (c) loans should go to governments only where private enterprise is not capable of undertaking the development in question; (d) ITO should check to verify the "need or worth" of a particular industrial development in question before making a loan. (Gilletto Safety Razor Company.)

(*Par. 4*)

1. Is ambiguous since "reasonable action injurious to the interests of such other members" is meaningless. (Besse—National Association of Wool Manufacturers.)

2. Should make a special reference to foreign creditors in bankruptcy and should provide that they receive treatment equal to domestic creditors. (McLaughlin—National Bankruptcy Conference.)

3. The National Foreign Trade Council approves the inclusion of this subject in the Charter and the general approach taken. The Council recommends that the substance of Article 5 of the preceding Chapter should be incorporated in Chapter IV. The Council feels that the most reliable source of industrial techniques and capital is private enterprise. Before these will be attracted to less developed countries there must be assurances of freedom from political interferences and government hostilities. The possessor of techniques and capital needs to be assured that his proprietary rights will be respected and protected and that he will not be subjected to competition by government or by government subsidized activities. Such commitments should be provided for through the ITO. The Charter might provide for the deposit by a Member with the ITO Secretariat of declaration of that Member's attitude toward foreign investment. This declaration would state which fields of activity would be entered by the government and which would be reserved for foreign investment. These declarations should be voluntary. If government enterprises should be set up and enter into competition with an established private concern, the owner should have the option of requiring his venture to be taken over at a fair valuation. In case of expropriation, prompt and effective compensation should be assured.

Another prerequisite to the flow of venture capital is protection against unreasonable fiscal actions in the form of taxes or obstacles to conversion of profits or returns into foreign currencies. Taxation can best be dealt with by a series of bilateral treaties, or by a multilateral convention, but some general statement of principle in the Charter would seem appropriate. Members should agree not to impose taxes which are discriminatory against foreign-owned enterprise and to make appropriate provision in times of exchange stringency for remittance for at least a reasonable return upon foreign capital.

(Par. 5)

1. This paragraph "does not adequately protect private entities rendering technical assistance in economic development". (U. S. Chamber of Commerce.)

2. Paragraph "is inadequate and ineffective" and should be further spelled out. (National Foreign Trade Council.) (Council also suggests that this is a procedural matter which might be covered in Chapter VIII. Possibly this paragraph will require certain reflection in Chapter VIII.)

Article 13. Governmental Assistance to Economic Development

1. Article is dangerous since it builds up vested interests and should not be used to excess. (International Apple Association and Far East-American Council of Commerce.)

2. Opposed to this. Should be liberally implemented since rising living standards following economic development will be aids in expanding world trade. (CIO.)

3. Article undesirable since it requires U. S. to obtain ITO approval for its own economic development projects. (Cotton Textile Institute.)

(Par. 2)

Constitutes desirable reservation with respect to thesis of paragraph 1, but Council thinks it would be extremely short-sighted to ignore strong trend to state trading and protectionism in China and India. U. S. negotiators should use negotiations to focus attention on long-time needs of China and India to their representatives in the hope of diverting them from excessive use of short-run protective devices. (Far East-America Council.)

(Par. 3)

1. This provision sets forth a procedure which is too complex and difficult. An agreement in principle is all that should be attempted. (Mining Associations of Western States.)

2. Paragraph does derogate from definitive commitments found elsewhere in the Charter and its full implication is not clear. This amounts to a waiver of obligations and should require a two-thirds vote in the Conference to be consistent with the provisions of Article 66, paragraph 2. (National Foreign Trade Council.)

CHAPTER V. GENERAL COMMERCIAL POLICY

Article 14. General Most-Favored-Nation Treatment

1. The Article serves no useful purpose, particularly because it makes too many exceptions in paragraph 2. (American Tariff League, Independent Petroleum Association of America, and National Association of Wool Manufacturers.)

2. The U. S. should not extend most-favored-nation treatment to countries which do not give the U. S. concessions which they grant to other countries. In particular, the extension by the U. S. of most-favored-nation treatment to countries maintaining preferences among themselves makes the U. S. a "foolhardy benefactor". (American Tariff League, Independent Petroleum Association of America, Commerce and Industry Association of New York.)

A. If some countries, such as those in the British Empire, are permitted to maintain preferences, others should be permitted to make similar preferential arrangements. (International Trade Section of the New York Board of Trade and the Foreign Traders Association of Philadelphia, Inc.)

B. In order to equalize the U. S. position with that of other countries maintaining exclusive bilateral arrangements, the way should be left open for the conclusion of bilateral trade agreements under which the benefits granted would not be extended to countries not party to the agreements. (International Trade Section of the New York Board of Trade.)

3. The Article should provide a formula, similar to that in the Philippine Trade Act, which would specify a time limit for the elimination of preferences. (Schenley International Corporation.)

4. The Article should provide most-favored-nation treatment with respect not only to the exchange of goods but also to related matters such as "the salesman with his literature and samples, or the traveling buyer for the marketing branch and its personnel, and for the financing banker, the underwriter and the carrier".

Article 15. National Treatment on Internal Taxation and Regulation

1. National treatment should be applied not only to products but also to:

A. Services and facilities. (U. S. Chamber of Commerce, American Foreign Insurance Association, American International Underwriters Corporation.)

B. Capital. (American International Underwriters Corporation.)

C. Fiscal matters "not only of the goods but of the enterprises, interest and activities of foreigners and definite assurance of no discrimination in taxation, particularly". (National Foreign Trade Council.)

D. Mark-up on imports. The U. S. should "consider requesting member countries to ask the importers of their respective countries to apply the same mark-up on imports as they do on domestic goods". (Schenley International Corporation.)

E. All matters falling within the sense of the term. "National treatment should be accorded in every sense of the term". (American Chamber of Commerce of Cuba.)

2. The U. S. Chamber of Commerce submitted the following suggested new text for Article 15 (words and phrases added, are italicized):

"1. The products of any Member country imported into, *and the services and facilities supplied to*, any other Member country shall be exempt from internal taxes and other internal charges higher than those imposed on like products, *services and facilities* of national origin, and shall be accorded treatment no less favorable than that accorded like products, *services and facilities* of national origin in respect of all internal laws, regulations or requirements affecting their sale, *negotiation*, transportation or distribution or affecting their mixing, processing, exhibition, *performance* or other use, including laws and regulations governing the procurement by governmental agencies of supplies for public use other than by or for the military establishment. The provisions of this paragraph shall be understood to preclude the application of internal requirements restricting the amount of proportion of an imported product, *service or facility* permitted to be mixed, processed, exhibited, *performed* or used.

"2. The Members recognize that the imposition of international taxes on the products, *services and facilities* of other Member countries, for the purpose of affording protection to (the domestic production of) competitive *domestic* products, *services or facilities*, would be contrary to the spirit of this Article, and they agree to take such measures as may be open to them to prevent in the future the adoption of new or higher taxes of this kind within their territories".

3. The American International Underwriters Corporation submitted the following suggested new text for Article 15 (words and phrases added, are italicized):

"1. The products, *capital, services and facilities* of any Member country *or any legal entity of whatever nationality therein which are purchased or employed by* any other member country *or by any legal entity of whatever nationality therein* shall be exempt from internal taxes and other internal charges higher than those imposed upon *products, capital, services and facilities* of national origin, and shall be accorded treatment no less favorable than that accorded *products, capital, services and facilities* of national origin in respect of all internal laws, regulations or requirements affecting their sale, *employment*, transportation or distribution or affecting their mixing, processing, *advertising*, exhibition or other *disposition or* use. The provisions of this paragraph shall be understood to preclude the application of internal requirements restricting the amount or proportion of any products, *capital, services or facilities* permitted to be *purchased or employed*."

"2. The Members recognize that the imposition of internal taxes *or laws discriminating against* the *purchase or employment of* products, *capital, services or facilities* of other Member countries *or legal entities of whatever nationality therein*, for the purpose of affording protection to domestic competitive products, *capital, services or facilities*, would be contrary to the spirit of this Article, and they agree to take such measures as may be open to them to prevent in the future the adoption of new or higher taxes *or new or more highly discriminatory laws* of this kind within their territories."

4. The American Foreign Insurance Association submitted the following suggested new text for Article 15 (words and phrases added, are italicized):

"1. The products, *commercial and economic services and facilities* of any member country *and of the nationals thereof*, imported into, *established or operating in* any other member country, shall be exempt from internal taxes and other internal charges higher than those imposed on like products, *services and facilities* of national origin, and shall be accorded treatment no less favorable than that accorded like products, *services and facilities* of national origin in respect of all internal laws, regulations or requirements affecting their sale transportation distribution, *advertisement, utilization, performance or operation*, or *in the case of products*, affecting their mixing,

processing, exhibition or other use. The provisions of this paragraph shall be understood to preclude, *among other things*, the application of internal requirements restricting the amount or proportion of an imported product permitted to be mixed, processed, exhibited or used."

"2. The Members recognize that the imposition of internal taxes on the products, *commercial and economic services and facilities* of other member countries *and of the nationals* thereof, for the purpose of affording protection to the domestic production, *development, establishment or operation, as the case may be*, of competitive products, *commercial and economic services and facilities*, would be contrary to the spirit of this Article; and they agree to take such measures as may be open to them to *repeal as soon as may be practicable any such existing internal taxes* and to prevent in the future the adoption of new or higher taxes of this kind within their territories."

Article 16. Freedom of Transit

Article 16 should not cover air traffic. (National Foreign Trade Council, Far East-America Council.)

Article 17. Anti-Dumping and Countervailing Duties

1. Subject matter of Article 17 should be limited to investigations and reports. (American Tariff League.)

2. Dumping and countervailing duties should be imposed only when there is a *government* bounty or subsidy. (National Foreign Trade Council.)

3. Dumping duties are more damaging than the practices they are designed to correct. (National Foreign Trade Council.)

4. Insert "wholesale trade"—Article 17 (1) (a) "(a) the comparable *wholesale trade* price for . . ." (National Council of American Importers.)

5. An allowance should be made in Article 17 (1) (c) for "differences in *unit of quantity of wholesale sale*". (National Council of American Importers.)

6. There should be a clarification as to what extent preferential exchange rates may be considered as grounds for countervailing duty. (National Council of American Importers.)

7. Article 17 (3) is particularly desirable. (American Watch Assemblers Association.)

8. Article 17 (5) seems to be self-executing and is contrary to present U. S. law. (Far East-America Council.)

Article 18. Tariff Valuations

1. Article 18 (1) which provides for investigations and recommendations, is inconsistent with 18 (2) which provides for conclusions. (American Tariff League.)

2. Wording of Article 18 (2) (a) should be clarified to emphasize that "actual value" requires the use of actual prices before resort is made to substitutions such as quotations or offers for sale—Substitutions should be proved to be more realistic by officials using this method of valuation. (National Foreign Trade Council, National Council of American Importers.)

3. The words "the actual value" in Article 18 (2) (a) should be changed to read "the actual export value to the country of destination in the ordinary course of wholesale trade". (National Council of American Importers.)

4. Article 18 (2) (d) is good and should correct an unfortunate U. S. situation. (American Watch Assemblers Association.)

Article 19. Customs Formalities

Article 19 (4) should be extended to specifically cover taxes on the transfer of payments and special port fees. (American Chamber of Commerce of Cuba.)

Article 20. Marks of Origin

1. Marks of origin should be standardized. (International Apple Association, Schenley International Corporation.)

2. Article 20 (4) is an example of indefiniteness—"seriously", "materially" and "unreasonably" are cited as illustrations. (Foreign Traders Association of Philadelphia.)

3. The exemptions from marking requirements should be reduced. (National Foreign Trade Council.)

4. Article 20 is regulatory, whereas the ITO's function should be limited to study and recommendations. (American Tariff League.)

5. A marking exemption should be made for articles where the origin would be known by everyone even though the articles were not marked. (National Council of American Importers.)

6. A marking exemption should be made for articles which show the name of the country of origin in its own language and that marking is sufficiently clear for all practical purposes. (Nat'l. Council of Am. Importers.)

Article 21. Publication and Administration of Trade Regulations—Advance Notice of Restrictive Regulations

1. Prohibitions against retroactive rulings should be tightened. (American Chamber of Commerce of Cuba.)

2. "The mere transmission to the ITO of such data would not accomplish the result desired unless some agency should undertake the assignment of publishing a digest of such matters for general distribution." (National Foreign Trade Council.)

3. The word "insurance" should be inserted between the words "warehousing" and "inspection" in paragraph 1. The words "other interested private parties" should be added between the words "enable traders" and "and governments". (American Foreign Insurance Association.)

Article 22. Information, Statistics and Trade Terminology

1. It is suggested that a new article be added to the Charter "directed to the need for a more general use of *'ex nomine'* tariff descriptions". (National Council of American Importers.)

2. The information required by this Article should be limited to general "statistical" information; the Article should not require disclosure of private confidential data, or data concerning individual transactions or the interest of individual enterprises. (National Foreign Trade Council, American Chamber of Commerce of Cuba.)

3. In connection with paragraph 7, it is suggested that mention should be made of the possibility of arriving at uniform material specifications and uniform systems of measurement. The metric system should be brought into use. (Foreign Traders Association of Philadelphia, Inc.)

Article 23. Boycotts

1. It is suggested that the scope of the action which governments would take to discourage boycotts should be broadened by:

A. Inserting the words "or other" after the word "political" in the last sentence. (Far East-American Council of Commerce and Industry.)

B. by mentioning labor entities along with "political" entities in the last sentence. (American Chamber of Commerce of Cuba.)

2. It is suggested that the general scope of the Article should be broadened so as to:

A. More clearly cover the British "buy British" campaigns. (National Association of Wool Manufacturers.)

B. prevent Members from encouraging boycotts against "the commercial and economic services and facilities" of other Members. The present wording is limited to goods. (American Foreign Insurance Association.)

3. Boycotts are sometimes necessary political instruments for protection of militarily weak powers and should not be damned unconditionally. (Albert Lee, Chinese Importer.)

Article 24. Reduction of Tariffs and Elimination of Preferences

1. U. S. Chamber of Commerce requests amendment to eliminate possibility of the United States being forced to reduce tariffs since there appears to be no corresponding power to force other nations to abandon restrictive practices.

2. That the Article be deleted. (American Tariff League. The Cotton Textile Institute also "strongly opposes" the Article. Similar objection to the Article filed by representatives of American Lace Manufacturers Association and the Amalgamated Lace Operatives of America.)

3. Objection is registered to the Article because it implies that tariffs are bad and should be reduced. National Wool Growers Association suggested that arrangements should be made for revision of tariffs upward. National Association of Wool Manufacturers states that Article is ambiguous because it does not define high or low tariffs and ignores the present height of a tariff, forcing a reduction although it is already low.

4. The American Cotton Shippers Association feels that Article 24 is the most important of the Charter.

5. Suggestion that Article 24 be amended to include a provision for negotiation of treaties of friendship, commerce, and navigation simultaneously with reciprocal trade agreements, so as to protect investment abroad. (American Chamber of Commerce of Cuba.)

6. That paragraph 3 be deleted. The Independent Petroleum Association of America feels that countries should not be compelled to negotiate tariff reduction. In addition the National Foreign Trade Council believes that this paragraph should be deleted because it does not like the application of "sanctions" in this form. It also feels that such sanctions would be futile in application.

7. (Section 1 (c)) This provision is called unwise by U. S. Chamber of Commerce because it appears to waive equivalence in concessions. The American Farm Bureau Federation also questions this provision and asks for further clarification.

Article 25. General Elimination of Quantitative Restrictions

Import restrictions on petroleum may be needed and hence ban on them is objectionable. (Independent Petroleum Association.) Same position taken for cotton textiles by Cotton Textile Institute.

(*Par. 2 (b)*)

"Exception for export prohibition to relieve critical shortages should be limited to foodstuffs, clothing and shelter, and articles directly involved in their production and distribution." (National Foreign Trade Council.)

(*Par. 2 (d)*)

Exception for commodity agreements objectionable because such agreements are objectionable. (National Foreign Trade Council, Mining Associations of Colorado, New Mexico, Arizona, Montana and Utah.)

(*Par. 2 (c)*)

Exception for import restrictions on products subject to restrictions on domestic production is related to the particular type of planned economy from which this country is presently trying to free itself and therefore this particular exception is definitely vicious. (National Foreign Trade Council.)

Article 26. Restrictions to Safeguard the Balance of Payments

Article 27. Non-Discriminatory Administration of Quantitative Restrictions

Article 28. Exceptions from the Rule of Non-Discrimination

1. Advantage will be taken of Article 26 by many nations for a considerable length of time unless activities to rectify balance-of-payments difficulties are taken promptly, chiefly by the U. S. (Women's International League for Peace and Freedom.)

2. The purposes of the Monetary Fund may be frustrated by the elaborate coverage of monetary difficulties in the Charter. It would be preferable to refer the determination whether such difficulties exist to the Fund, and to provide that in the event of an affirmative finding relief under these Charter provisions should be automatic. This applies also to discrimination as covered by Article 28. (National Foreign Trade Council.)

3. Some provision is necessary to see that nations not Members of the Fund do not take advantage of other nations through currency and exchange manipulations. (American Farm Bureau Federation.) (Note: Provision is made for exchange agreements by non-Members of Fund with ITO which covers this point.)

4. Allocated country quotas undesirable since views of such practices not cured by dividing limited import quotas into fractions which impose still further limitations. Global quotas preferable. (National Foreign Trade Council.) Exactly opposite position taken by National Apple Association which prefers allocated quotas.

Article 30. General Undertaking Regarding Subsidies—Elimination of Export Subsidies—Exceptions

1. Export subsidies should be permitted to prevent chaos in basic agricultural industries. (American Farm Bureau Federation and Illinois Agricultural Association.) National Apple Association takes opposite view.

2. Period during which export subsidies should be retained (par. 2) should end December 31, 1949. Paragraph 4 (b) which permits retention of export subsidies under certain conditions of surplus reflects discredit on American policies and should be deleted. (National Foreign Trade Council.)

3. This Article objected to on ground that it might prevent firms selling abroad at lower than their domestic prices. (Foreign Traders Association of Philadelphia.)

Article 31. Non-Discriminatory Administration of State Trading Enterprises
Article 32. Expansion of Trade by State Monopolies of Individual Products
Article 33. Expansion of Trade by Complete State Monopolies of Import Trade

1. State enterprises or monopolies are opposed to the principle of private enterprise and should not be resorted to "except in grave emergency or when private enterprise breaks down or is non-existent." (American Foreign Insurance Association.)

2. Article 25 (par. 2 (g)) makes possible the establishment of new state trading monopolies. State trading should be discouraged in every possible way. (U. S. Chamber of Commerce.) Same point made by Besse, National Association of Wool Manufacturers, American Cotton Shippers Association, National Foreign Trade Council, Mining Associations of Colorado, New Mexico, Arizona, Montana and Utah, Harnischfeger Corporation, American Tariff League.

3. Purpose of Article 32 destroyed by paragraph 3 which refers to revenue monopolies. (Harnischfeger Corporation.)

4. Article 31 gives unfair advantage "to the stronger competitive position of state trading system and does not provide adequate safeguards for benefit or protection of private systems." (Foreign Traders Association of Philadelphia.)

5. Retention of Article 31 not objected to by National Foreign Trade Council, but thinks Article 32 has no substantial promise of success and Article 33 (complete state monopoly) not likely to be attractive to the country concerned.

Article 34. Emergency Action on Imports of Particular Products

1. No assurance that Government will invoke escape clause. (American Tariff League, Independent Petroleum Association, American Lace Manufacturers Association, Cotton Textile Institute.)

2. U. S. should not use escape clause. (Representative of Food for Freedom.)

3. The provision whereby ITO may authorize action against trade of country using escape clause, which is more than compensatory for such action, is punitive and objectionable. (American Tariff League, U. S. Chamber of Commerce, National Foreign Trade Council.)

Article 36. Contractual Relations with Non-Members—Treatment of Trade of Non-Members

1. Denial of benefits to non-members of questionable usefulness in promoting membership. (CIO.)

2. Question raised whether denial of most-favored-nation treatment to non-members is constitutional. (Lockett, Customs Lawyer.)

Article 37. General Exceptions to Chapter V

1. Exception (j), under which Charter not applicable to conservation measures, should be deleted as this is a subject which lies within the competence of the several states rather than the Federal Government. (Independent Petroleum Association.)

2. Exception (j) objectionable on ground that there should not be a completely free hand in dealing with conservation, as international agreements on this subject should conform to accepted standards. Also the right to take such action should not, as now provided, be conditional upon restrictions being imposed on domestic production or consumption. (National Foreign Trade Council.)

3. Exception (g) should be stated positively and made applicable only to the matters listed as examples. (National Foreign Trade Council.)

Article 38. Territorial Application of Chapter V—Customs Unions—Frontier Traffic

Paragraph 4 should be so drawn as to encourage regional agreements. (Catholic War Veterans.)

CHAPTER VI. RESTRICTIVE BUSINESS PRACTICES

General

The National Foreign Trade Council would delete this Chapter for the following reasons: (1) ITO activity concerning business practices will be ineffective; and (2) the Chapter is negative and does not guide business men in determining what practices are legitimate. The Illinois Manufacturers Association apparently concurs. The Council, together with the United States Life Insurance Company and the American International Underwriters Corporation, believes that governmental practices rather than business practices "are the fetters gall-

ing international business." The insurance companies also object to superinforcing international regulation upon national regulation. The Harnischfeger Corporation believes that the Chapter discriminates against private business because no government will report restrictive practices of its own controlled enterprises whereas governments in which private enterprises operate would not only report on but also police such practices.

Article 39. Policy Toward Restrictive Business Practices

The American Tariff League doesn't see the need for specifically stating various types of practices in paragraphs 2 and 3. The original statement in paragraph 1 should be sufficient. "We are wondering if some practices that are not spelled out would be allowable?"

Article 40. Procedure with Respect to Complaints and Conferences

1. The National Association of Consumers recommends that the phrase "whether producer or consumer" be inserted after the words "any affected person" in paragraph (b), so as to make it clear that a consumer as well as a business affected may enter a complaint leading to investigation of restrictive practices.

2. The Schenley International Corporation feels that the Organization should decide at the beginning whether or not it will receive written complaints from individuals or companies. It would be unjust to provide, as paragraph (b) now does, that complaints may be received from individuals or companies with the permission of a Member. Some countries might permit individuals or companies to present their cases; others might not. The Schenley Corporation believes that only Member governments should be allowed to present complaints.

3. The National Foreign Trade Council feels that the procedures provided would necessitate a large staff and would be very expensive. "It is suggested that consideration should be given to deleting this Article and substituting an Article providing for direct negotiations between the interested Members under the auspices of the Organization."

Article 42. Obligations of Members

1. The Foreign Traders Association of Philadelphia, Inc. states that the Webb-Pomerene Act would be expressly outlawed by Article 42. "This would be eliminated an effective means whereby private trading systems might compete with state trading."

2. . . . most other countries have no corresponding law (Sherman Act) and many do not even condemn such practices. Can they be depended on to live up to their obligations? Should we thus obligate ourselves without greater assurance that others will be similarly bound?" (U. S. Chamber of Commerce.)

3. Specific proviso should be inserted protecting labor unions from attack on the ground of monopoly if they are immune from such attacks under domestic legislation. (Fishermen's Union.)

4. With respect to the use of the phrase "within its jurisdiction" in paragraph 1, the National Foreign Trade Council feels that there is need for "a more definitive statement of jurisdictional limitations". Otherwise, there might be considerable diversity of interpretation. The Council notes that paragraph 4 of Article 37 of the Charter has been omitted, thus permitting members to work out solutions between themselves without reference to the Organization. Although the Council has suggested in its comments on Article 40 that the Charter should provide for direct negotiations among governments rather than for research and investigation by the ITO, it believes that the policy should be consistent. Either these problems should be handled through the Organization *or* by direct negotiations.

Article 43. Supplementary Enforcement Arrangements

The National Foreign Trade Council states that while the idea of plurilateral action to implement orders originating in a member country is attractive, "the proposal raises again a serious doubt as to whether the technical questions of jurisdiction have been completely analyzed or a solution offered. We cannot approve the Article as drawn."

Article 44. Continued Effectiveness of Domestic Measures Against Restrictive Business Practices

The National Foreign Trade Council says that this Article would permit a Member to take enforcement action with respect to a practice, even though the Organization finds that practice to be unobjectionable. "It is difficult to see

why the Members should not be obligated to give . . . consideration to the finding by the Organization that a practice is not harmful." The Council feels that there should be provision requiring the Organization and other Members to give consideration to provisions of a Member's national law, such as the Webb-Pomerene Act.

Article 45. Exceptions to the Provisions of this Chapter

Intergovernmental cartels are excepted. It appears that such agreements are more likely to have harmful effects than private agreements. (U. S. Chamber of Commerce.)

CHAPTER VII. INTER-GOVERNMENTAL COMMODITY ARRAGEMENTS

General

1. The National Foreign Trade Council takes the position that no valid distinction can be made between inter-governmental commodity arrangements and restrictive business practices by commercial enterprises. It believes that the United States should oppose inter-governmental commodity agreements. The Council recognizes, however, that there is a danger that existing arrangements may continue, and that new ones will be formed. "Therefore, we feel that whatever restraint can be exercised upon them through the International Trade Organization will be a net advantage, quite over-balancing any implied sanction implied in the provisions of the Charter."

2. The American Lace Manufacturers Association and the Amalgamated Lace Operatives of America describe the Chapter as a "plan for world collectivism."

3. FAO should be given a more affirmative place in the ITO structure. (Food for Freedom and National Association of Consumers.) (Specific proposals listed under pertinent articles.)

Article 47. Objectives of Inter-Governmental Commodity Arrangements (Par. 3)

1. The American Tariff League feels that paragraph 3 "seems to indicate control features that extend over a considerable time, and do not address themselves immediately to a problem of surplus of a primary commodity. We do not think that that particular scope should be in this section initially."

2. The representative of the American Lace Manufacturers Association and of the Amalgamated Lace Operatives of America states that paragraph 3 of Article 47 would mean control of our American economy by an international authority.

Article 49. Commodity Conferences

Food for Freedom suggests that the following sentence should be added at the end of paragraph 1: "In respect to food and agricultural production, Commodity Conferences would be called by the Organization only after consultation with the Food and Agriculture Organization which agency may itself call Commodity Conferences within its field after consultation with the Organization."

Article 50. Relations With Specialized Agencies

1. Food for Freedom suggests that the following words should be added to the single sentence in paragraph 2: ". . . and the Food and Agriculture Organization shall be entitled to participation in the work of Study Groups or Commodity Conferences within the purview of its field."

2. Labor should be represented on the study groups and commodity conferences. (Fishermen's Union.)

Article 51. General Principles of Inter-Governmental Commodity Arrangements

1. The National Foreign Trade Council points out that no detailed implementation of the provision for equal payments between producers and consumers is set forth. Because of the possibility for disagreement between these two groups, further attention to this provision would appear desirable.

2. Expresses concern about giving importing countries equal voice. Exporting nations most affected by adverse economic conditions and "should have most to say." (American Farm Bureau Federation.)

3. The National Association of Consumers thinks it important that consumer interests should be represented. The purpose of consumer representation would be frustrated, however, if in practice a producer represented a consumer country. "Some definite provision should be made for an adequate representation of the consumer point of view . . ."

(*Par. 5*)

Should contain a reference to the plans of FAO to make food available in depressed areas at prices lower than the world market. (Warne—Consumers Association.)

Article 52. Circumstances Governing Use of Regulatory Agreements

The National Foreign Trade Council feels that as a result of changes made in this Article at London, there is no adequate provision as to who will determine whether the stipulated conditions exist. Nor is there any specific sanction provided in the event that Members enter into agreements when the stipulated conditions do not exist. The Council suggests that the intention of the third stipulation should be made clearer.

(*Par. 2*)

Should spell out further the threatened damage to the condition of workers in connection with the authorization of a commodity agreement. (Fishermen's Union.)

(*Par. 3*)

1. The Harnischfeger Corporation dislikes paragraph 3 of Article 52 because it permits other than a primary commodity to be included in inter-governmental regulatory agreements. It does not object to commodity agreements in general, as long as they are strictly confined to primary commodities.
2. The American Tariff League asks for the deletion of paragraph 3, since it feels that agreements should be limited to primary commodities in burdensome surplus.
3. Should be amended so that inter-governmental commodity agreements "apply only to primary commodities in burdensome surplus, be resorted to in a minimum number of cases, and be terminated as quickly as possible." (U. S. Chamber of Commerce; also American Tariff League.)

(*Par. 4*)

The National Association of Consumers recommends that the following be added to Article 52 as a new paragraph 4: "An acute deficiency of a commodity exists for which, in the absence of specific governmental action, sufficient expansion of production or reduction in price to meet such deficiency is unlikely to take place as a result of normal marketing forces alone in time to prevent serious hardship to consumers."

Article 53. Additional Principles Governing Regulatory Agreements

(*Par. 5*)

The Independent Petroleum Association of America objects to paragraph 3 of Article 53. "If this provision carries nothing but negative authority then it is redundant and should be eliminated. If it carries affirmative authority, and that is what we believe and fear, then certainly it should be eliminated because we do not want any international body deciding that oil 'can be supplied most effectively and economically' from Texas, or California, or Mexico, or Iraq."

(*Par. 6*)

Substitute "countries agree to seek methods of economic adjustment in accordance with their laws. . . ." for ". . . . shall adopt a program of economic adjustment . . ."

Article 54. Administration of Regulatory Agreements

(*Par. 2*)

With reference to the second paragraph, the National Foreign Trade Council doubts whether a set formula for preventing agreements from being instrumentalities of producer interests has been found. The councils may be subject to deadlock between the producer and consumer groups. Furthermore, some countries might not clearly fall in one category, rather than the other.

(*Par. 3*)

Food for Freedom proposes that the following words should be added at the end of the single sentence in paragraph 3: ". . . but the Food and Agriculture Organization should be entitled to appoint a non-voting member to any commodity council of a commodity within its field."

Article 55. Provisions for Initial Terms, Review, and Renewal of Regulatory Agreements

Should contain a provision under which the ITO should bring pressures for the termination of each commodity agreement as soon as possible. (Manufacturers Association of Connecticut.)

Article 58. General Undertaking by Members

The National Foreign Trade Council states: "There can be no objection to the provisions of this article, although mutuality would seem to require that equal consideration should be given to any objections as to price and terms of sale by the member to whom the recommendation is made."

Article 60. Definitions

(Par. 1)

1. The American Tariff League believes that the definition contained in paragraph 1 should be limited to the first sentence of that paragraph, since it feels that agreements should be limited to primary commodities. Similarly it suggests that the definitions in paragraphs 3 and 4 should be limited to primary commodities.

2. Should define "primary commodity" in such terms as to include fishery products. (This should be compared with Article 25, paragraph 2 (e) which specifically mentions "fisheries product". (Fishermen's Union.)

CHAPTER VIII. ORGANIZATION

General

1. The National Foreign Trade Council feels that this Chapter should also include provisions on the related subjects of membership and purposes, now in separate chapters, as well as the procedural provisions from other chapters of the Charter.

2. The spokesman for the Department of Christian Social Relations of the Women's Division of the Methodist Church states that there should be clarification of the relationships and division of responsibility among the ITO and other organizations, and provision for consultation and coordination. Mr. Edwin A. Elbert, President of Elbert and Company, Incorporated, fears that the ITO will not have the authority to enforce its decisions. He feels that it should have such authority.

Article 61. Functions of the Organization

(Par. 5)

A large number of new functions or fields of activity for the ITO were suggested for the various purposes as follows:

1. The ITO should include the protection of ship supply companies from foreign legislation requiring ships of foreign countries to outfit solely within their own country. (Foreign Commerce Club of Boston.)

2. The ITO should include the protection of marine risk insurance companies from foreign legislation requiring foreign insurance on all products exported from or imported into that foreign country. (Boston Chamber of Commerce, Foreign Trade Committee, American Foreign Insurance Association.)

3. The ITO should provide for the international registration of patents. This would assist in controlling cartels. (Consumers Association.)

On the other hand, the Foreign Trade Council feels ITO should protect industrial property rights such as patents, trademarks, etc. This presumably would also mean registration of patents.

4. ITO should protect foreign creditors in bankruptcy from legislation in favor of American creditors. (National Bankruptcy Conference.)

5. The ITO should recommend agreements on commercial arbitration (Foreign Traders Association of Philadelphia) and should establish machinery within the ITO to provide for the mechanics of arbitration of disputes between public traders of different nations. (Stigler, President, Trans-Globe Traders.)

Article 63. Membership

(Par. 1)

A large number of witnesses requested special representation on official U. S. delegations to the ITO bodies. This was not addressed to any particular article, but is mentioned as appropriate to this article among others. Among witnesses favoring this were:

Catholic War Veterans
New England Shoe and Leather Association
Schenley International Corporation
Consumers Association
National Association of Cotton Manufacturers
Fishermen's Union

(It would appear that the suggestion should be addressed to the implementing U. S. legislation on ITO and not to the Charter.)

Article 64. Voting

(Par. 1)

Two witnesses favored weighted voting:
Illinois Manufacturers Association
Foreign Traders Association of Philadelphia

Article 67. Interim Tariff Committee

The National Foreign Trade Council suggests omission of this article. "Its effect is to separate the matter of tariffs from other considerations. In this event, the principal element in our bargaining position is thrown out of relation to the various other concessions in which we are interested as a nation. Such a development would be most unconstructive."

Article 68. Membership

The National Foreign Trade Council prefers the first alternative.

Article 71. Powers and Duties

With reference to the last sentence of paragraph 1 the National Foreign Trade Council states that "this is an unusual particularization . . . It would seem more consistent and practical to refer this subject to an appropriate commission, and leave the duties of the Board generalized."

Article 73. Composition and Procedure

Organized labor and industry should have a voice on the commissions. (Fishermen's Union.)

Article 75. Functions of the Commission on Commercial Policy

With reference to the provision for recommendations to the Board of programs which may include "cooperative projects of a technical nature in the field of commercial policy", the National Foreign Trade Council says: "We may assume that this does not involve going outside its generally advisory functions, but the wording does seem a bit inconclusive and suggestive."

Article 76. Functions of the Commission on Business Practices

With reference to (b), (e) and (f) of paragraph 1, the National Foreign Trade Council states that "these are clearly judicial or quasi-judicial functions and powers." The Council feels that there is serious doubt as to the proprietary of delegating such powers to such a commission. "We feel that this whole article requires extensive study and revision on a much more limited basis, with due regard to questions of jurisdictional concepts."

Article 81. Relations with Other Organizations

(Par. 2)

Food for Freedom suggests the words "including arrangements for continuous consultation between the Secretariat of the Organization and that of other competent international agencies with related fields of activity" be inserted in paragraph 2 of Article 81 between the words "effective cooperation" and the words "may be established". (Food for Freedom and certain of its correspondents testifying at the Hearings including the Consumers Association.)

(Par. 3)

Too little emphasis on necessity for using non-governmental groups in an advisory capacity. (American Farm Bureau Federation.)

Article 85. Amendments to Charter

The National Foreign Trade Council points out that "as two-thirds of the members gang up, they may force out one or more members by the amendment process." It feels, however, that "the article has been drawn with great care and this possibility should be regarded as only an inherent hazard in any attempt at international collaboration of a formal nature."

Article 86. Interpretation and Settlement of Disputes

1. Language should be included to indicate that disputes included under this article do not include such matters of domestic concern as are now handled by domestic customs courts, for example, an evaluation dispute in a given case. (Joseph Lockett, Customs Lawyer, Boston.)

2. The National Foreign Trade Council objects to the limitation on the right of appeal to the International Court, which is provided by the phrase "in accordance with such procedures as the Conference shall establish".

3. The American Arbitration Association recommends amendment of paragraph 2 to read as follows: "Any question or difference concerning the interpretation of this Charter or arising out of its operation shall be referred to the Executive Board for a ruling thereon. Any party to the dispute or any party affected by the ruling may appeal within sixty days to an ad hoc arbitration tribunal, which shall be composed of arbitrators selected by the parties from lists of qualified and available persons maintained by the Director General upon the nomination of the members of the Organization. The arbitral procedure shall be prescribed by the Executive Board and each award shall be appealed by any party affected to the International Court of Justice in accord with the provisions of Paragraph 3."

Article 88. Entry into Force

With respect to the provision that governments adhering to the general agreement on tariffs may bring the Charter into force "in accordance with arrangements which they may agree upon", the National Foreign Trade Council states: "If such 'arrangements' should include cancelling out any extensive parts of the Charter, the results would seem to be unsatisfactory. In fact, unless the Charter attracts at least twenty adherents, it can hardly be said to promise substantial progress toward solution of our international commercial problem by collaboration."

Article 89. Withdrawal and Termination

The National Foreign Trade Council points out that it is easier for a country not fulfilling its obligations and subject to sanctions (for example, under Article 24) to withdraw from the Organization than for a Member which lives up to its obligation. The Organization should have the right to suspend Members for cause, and in cases of flagrant disregard of obligations, to expell "with the understanding that such suspension or expulsion would not in any degree relieve the offending Member of its obligations incurred while still retaining its membership." This should be implemented by the power to place such additional obligations upon the offending Member in case of re-admission, as would provide reasonable assurance of remedy for other Members injured by its default or violation of duty."

New Article (Possibly to be inserted between Article 88 and 89 on Expulsion)

Charter should contain provision for expulsion of members for failure to fulfill their commitments. (National Association of Consumers and National Foreign Trade Council.)

ORGANIZATIONS WHICH PRESENTED THEIR VIEWS ON THE PROPOSED ITO CHARTER

(This list does not include individuals appearing on their own behalf or Port Authority representatives)

ORGANISATIONS GENERALLY APPROVING THE PROPOSED CHARTER, WITH OR WITHOUT QUALIFICATIONS

Business, Professional and Farm Organisations:

Advertising Association of the West, 530 Monadnock Building, San Francisco, California.
American Arbitration Association, 9 Rockefeller Plaza, New York 20, New York.
American Cotton Shippers' Association, New Orleans, Louisiana.
American Marketing Association, San Francisco Chapter, San Francisco, California.
American Watch Assembler's Association, Inc., 8 Bridge Street, New York 4, N. Y.
Apex Tire and Rubber Company, Pawtucket, Rhode Island.
Association of Food Distributors of New York and the American Spice Trade Association, 99 Hudson Street, New York 13, N. Y.
Bashian Manufacturing Company, Crane Court, Boston, Mass.
Bay Area Maritime Committee, 465 California Street, San Francisco.
Birmingham Chamber of Commerce, Birmingham, Alabama.
Boston Chamber of Commerce, 80 Federal Street, Boston, Mass.
Burlap and Jute Association, 425 W. 25th Street, New York 1, N. Y.

Business, Professional and Farm Organizations—Continued

Burley Leaf Tobacco Dealers' Association and Exporters' Association, Louisville, Kentucky.
California Farm Bureau Federation, Berkeley, California.
Canners League of California, 64 Pine Street, San Francisco.
Chamber of Commerce and Board of Trade of Philadelphia, 17th and Sansom Streets, Philadelphia 3, Pennsylvania.
Chicago Association of Commerce and Industry, 1 North LaSalle Street, Chicago, Illinois.
Commerce and Industry Association of New York, Inc. (Interchemical Corporation), 850 Fifth Avenue, New York 1, N. Y.
Denver Exporter's Club, Denver, Colorado.
Down Town Association, 57 Post Street, San Francisco, Calif.
Dried Fruit Association of California, 1 Drumm Street, San Francisco, California.
Edmond Weil, Inc., 100 Gold Street, New York 7, N. Y.
Elbert and Company, Inc., 2 Broadway, New York 4, New York.
Export Manager's Club of Chicago, 1 North LaSalle Street, Chicago, Illinois.
Export Managers' Club of New Orleans, P. O. Box 433, New Orleans 1, Louisiana. (Also represented H. S. Renshaw, Inc., Balter Building, New Orleans, La.)
Export Managers Club, 2 Lafayette Street, New York 7, N. Y.
Export Managers Association of San Francisco, Associated Commercial Company, Inc., 461 Market Street, San Francisco 5, Calif.
Far East-America Council of Commerce and Industry, Inc., 30 Rockefeller Plaza, New York 20, New York.
Flax and Fibre Institute of America, 6423 North Newgard Street, Chicago, Illinois.
Foote, Cone and Belding, Russ Building, San Francisco, Calif.
Foreign Traders Association of Philadelphia, Inc., 133 South 36th Street, Philadelphia 4, Pennsylvania.
Fred Leighton, Inc., 24 University Place, New York 3, N. Y.
Gardner-Denver Company, Denver, Colorado.
Gates Rubber Company, Denver 17, Colorado.
Gillette Safety Razor Company, 15 West 1st Street, Boston, Mass.
Golden Gate Paint, Varnish and Lacquer Association, 925 Hearst Building, San Francisco 3, California.
Harold Bernstein and Company, Inc., 1071 Sixth Avenue, New York 18, N. Y.
Harnischfeger Corporation, Milwaukee 14, Wisconsin.
Hemisphere Trading Company, New Orleans, La.
Illinois Agricultural Association, 608 South Dearborn, Chicago.
Illinois Manufacturers Association, 120 South LaSalle Street, Chicago.
International Apple Association, 154 East Avenue, Rochester 4, New York.
International House, Gravier and Camp Streets, New Orleans, La.
International Market, Laredo, Texas.
Kapok Association, 10 E. 40th Street, New York 16, N. Y.
Manufacturers Association of Connecticut, Hartford, Conn.
Marine Exchange of the San Francisco Chamber of Commerce, 465 California Street, San Francisco 4, California.
Memphis Chamber of Commerce, and Memphis International Center, Memphis, Tennessee.
Mid-Continent World Trade Council, 500 Natchez Street, New Orleans, 12, La.
Mississippi Shipping Company, New Orleans, La.
Morton Company, 114 State Street, Boston 9, Massachusetts.
Myles Salt Company, Ltd., Post Office Box 329, New Orleans 9, La.
National City Bank of New York (also representing the Chamber of Commerce of the USA), New York, N. Y.
National Coat and Suit Industry Recovery Board, 450 Seventh Avenue, New York, N. Y.
National Cooperatives, Inc., 343 South Dearborn, Chicago 4, Illinois.
National Council of American Importers, Inc., 45 East 17th Street, New York 3, New York.
National Federation of Business and Professional Women's Clubs, 171 West 44th Street, Indianapolis 8, Indiana. (Appeared in Boston, Chicago, New Orleans, New York, San Francisco and Washington.)
National Foreign Trade Council, Inc., 26 Beaver Street, New York 4, New York.

Business, Professional and Farm Organizations—Continued

New England Manufacturing Jewelers' and Silversmiths' Association, Providence Biltmore Hotel, Providence, Rhode Island.
New York Board of Trade, 201 Broadway, New York 7, New York.
The Norton Company, Worcester, Massachusetts.
Oakland Chamber of Commerce, 417 14th Street, Oakland 12, California.
Oakland Foreign Trade and Harbor Club, Chamber of Commerce Building, 417 14th Street, Oakland 12, California.
The Olive Oil Association of America, Inc., 57 Laight Street, New York 13, New York.
Overseas Automotive Club, Inc., 330 West 42nd Street, New York 18, New York.
Pacific American Steamship Association, 405 Montgomery, San Francisco, California.
Pacific Coast Coffee Association, Suite 722, Merchants Exchange Building, 465 California Street, San Francisco 4, California.
The Pacific Northwest Trade Association, Chamber of Commerce, Seattle, Washington.
Pacific Traffic Association of San Francisco, Inc., Pacific Coast Customs & Freight Brokers Assn, c/o Perry & McCarthy, 260 California Street, San Francisco, California.
Poultry Products of Central California, 840 Battery Street, San Francisco 11, California.
Propeller Club of the United States, Chamber of Commerce, San Francisco 4, Californa.
Rice Growers Association of California, P. O. Box 958, Sacramento 4, California.
San Antonio Chamber of Commerce, San Antonio, Texas.
San Francisco Bay Area World Trade Promotion, Committee of the San Francisco Bay Area Council, Chamber of Commerce Building, 417 14th Street, Oakland 12, California.
San Francisco Chamber of Commerce, 333 Pine Street, San Francisco 4, California.
Foreign Trade Association of the San Francisco Chamber of Commerce, 333 Pine Street, San Francisco 4, California.
Junior World Trade Association of the San Francisco Chamber of Commerce, 333 Pine Street, San Francisco 4, California.
San Francisco Clearing House Banks, c/o American Trust Company, San Francisco, California.
San Francisco Junior Chamber of Commerce, 333 Pine Street, San Francisco 4, California.
Schenley International Corporation, Empire State Building, 350 5th Avenue, New York 1, New York.
Structural Engineers Association of Northern California, 1227 Russ Building, San Francisco 4, California.
Tapioca Institute of America, 441 Lexington Avenue, New York 17, New York.
Transglobe Traders, Tapioca Institute of America, 441 Lexington Avenue, New York 17, New York.
United Atlas Company, 15 Pearl Street, New York 4, New York.
World Trade Center, Inc., 800 Financial Center Building, San Francisco 4, California.
Yahr-Donen Corporation, New York, New York.
Young Men's Business Club of New Orleans, New Orleans, Louisiana.

Other Organizations:

American Association for the United Nations, Inc., 422 E. and C. Building, Denver 2, Colorado. Appeared in Boston, Denver and New York.)
American Association of University Women, 1634 Eye Street, N. W., Washington 6, D. C. (Appeared in Chicago, Denver, New Orleans, San Francisco and Washington.)
American Federation of State, County and Municipal Employees, AFL, Chicago, Illinois.
American Unitarian Association, 25 Beacon Street, Boston 8, Massachusetts.
Americans United for World Government, Inc., 1860 Broadway, New York 23, New York.

Other Organizations—Continued

American Veterans of World War II, 724 9th Street, N. W., Washington 5, D. C.
Atlantic Fisheries Union (AFL), 253½ Northern Avenue, Boston, Massachusetts.
Boston Young Women's Christian Association, 140 Clarendon Street, Boston 16, Massachusetts.
Catholic Association for International Peace, Washington, D. C.
Catholic War Veterans, Empire State Building, New York, New York.
Church Federation of Greater Chicago, 77 West Washington Street, Chicago, Illinois.
Church Peace Union, 70 5th Avenue, New York, New York.
Citizens Conference on International Economic Union, 370 Lexington Avenue, New York 17, New York.
Commission on Justice and Peace of the Central Conference of American Rabbis, Vine Street Temple, Nashville, Tennessee.
Committee on Just and Durable Peace, Washington, D. C.
Congregational Christian Women's Fellowship of Greater Chicago, 525 Ash Avenue, Winnetka, Illinois.
Denver Industrial Council, Congress of Industrial Organizations, Denver, Colorado.
Congress of Industrial Organizations, Department for International Affairs, 718 Jackson Place, N. W., Washington 6, D. C.
CIO Maritime Committee, 930 F Street, N. W., Washington 4, D. C.
The Council for Social Action of the Congregational Christian Churches of the U. S. A., 289 Fourth Avenue, New York 10, New York.
Federal Council of the Churches of Christ in America, 906 First National Bank Building, Cincinnati, Ohio.
First Unitarian Church, New Orleans, Louisiana.
The First Unitarian Church of Denver, 1870 Broadway, Denver 2, Colorado.
Food for Freedom, Inc., 1002 11th Street, N. W., Washington 1, D. C.
General Federation of Women's Clubs, 1734 N Street, N W., Washington, D. C.
(Appeared in Chicago, Denver, New Orleans, New York, San Francisco and Washington.)
League of Women Voters of the United States, 726 Jackson Place, N. W., Washington 6, D. C. (Appeared in each of the hearing cities.)
National Association of Consumers, Washington, D. C. (Appeared in Boston, Chicago, New York, San Francisco and Washington.)
National Council of Jewish Women, Inc., 6630 16th Street, N. W., Washington, D. C. (Appeared in Chicago, Denver, New Orleans, San Francisco and Washington.)
National Farmers Union, Denver, Colorado.
National Peace Conference, 8 West 40th Street, New York, 18, New York.
National Women's Trade Union League of America, 317 Machinists Building, Washington 1, D. C. (Appeared in Boston, Chicago, New York, San Francisco, and Washington.)
Twentieth Century Fund, New York, New York.
United Electrical, Radio & Machine Workers of America, 1029 Vermont Avenue, N. W., Washington 5, D. C.
United Nations Council of Harvard, Little Hall 21A, Harvard University, Cambridge, Massachusetts.
United Packinghouse Workers of America, 515 Engineering Building, 205 West Wacker Drive, Chicago 6, Illinois.
Washington Federation of Churches, 1751 N Street, N. W., Washington, D. C.
Women's Action Committee for Lasting Peace, 1 East 57th Street, New York 22, New York. (Appeared in each of the hearing cities.)
Women's Division of the Methodist Church, 150 5th Avenue, New York 11, New York.
Women's International League for Peace and Freedom, 410 South Michigan Avenue, Chicago, Illinois.
World Affairs Council of Rhode Island, Providence, Rhode Island.
Young Women's Christian Association, Denver, Colorado.
Young Women's Christian Association, San Francisco, California.
Young Women's Christian Association of Chicago, 208 North Wabash Avenue, Chicago 1, Illinois.

ORGANIZATIONS SAYING LITTLE OR NOTHING ABOUT THE PROPOSED CHARTER, BUT EXPRESSING CONCERN WITH RESPECT TO THEIR OWN INTERESTS

Business, Professional and Farm Organizations:

American International Underwriters Corporation, 11 John Street, New York 7, New York
The American Middle-East Trading Co., 33 West 42nd St., New York 18, New York
American National Live Stock Association, 515 Cooper Building, Denver 2, Colorado.
The Association of Marine Underdwriters of the U. S., 99 John Street, New York 7, New York.
California Almond Growers Exchange, 18th and C Streets, Sacramento, California
California Walnut Growers Association, 1745 East Seventh Street, Los Angeles, California.
Cherry Growers and Industries Foundation, 1437 American Bank Building, Portland 5, Oregon.
Colorado Raw Fur Dealers Association, 1611 Wazee Street, Denver, Colorado.
Colorado Wool Marketing Association, Inc., 425 Continental Oil Building, Denver 2, Colorado.
Combined Metals Reduction Company, P. O. Box 178, Salt Lake City 8, Utah. (For Colorado Mining Association and others)
Federated Association of World Traders, Inc., 130 West 42nd Street, Suite 705, New York, New York.
Fruit Industries
The Mountain States Beet Growers Marketing Association, Box 414, Greeley, Colorado.
National Bankruptcy Conference, Cambridge, Massachusetts.
National Wool Growers Association, 509 Pacific National Life Building, Salt Lake City 1, Utah.
Northwest Horticultural Council, Wenatchee, Washington
Northwest Nut Growers, Dundee, Oregon.
Wine Institute, 717 Market Street, San Francisco 3, Calif.
U. S. Hop Growers Assn., San Francisco, Calif.

ORGANIZATIONS GENERALLY OPPOSING THE ITO

Business, Professional and Farm Organizations:

Agricultural Council of California, San Francisco.
The American Cotton Manufacturer's Association, Washington, D. C.
American Tariff League, 10 West 44th Street, New York, New York.
American Viscose Corporation, 350 Fifth Avenue, New York, New York.
Atlantic Coast Fisheries,[1] 4 Fish Pier, Boston, Massachusetts.
The Cotton Textile Institute, Inc., 320 Broadway, New York 7, New York.
Independent Petroleum Association of America, 500 Investment Building, Washington 5, D. C.
Massachusetts Fisheries, Association, Inc.,[1] Administration Building, Fish Pier, Boston, Massachusetts.
Mississippi Shipping Company, New Orleans, Louisiana
The National Association of Cotton Manufacturers, 80 Federal Street, Boston 10, Massachusetts.
National Association of Wool Manufacturers, 386 Fourth Avenue, New York 16, New York.
The National Federation of Textiles, Inc., 889 Fifth Avenue, New York 16, New York.
National Renderers Association, 945 Pennsylvania Avenue NW., Washington 4, D. C.
The New England Shoe and Leather Association, 210 Lincoln Street, Boston, Massachusetts.
New Orleans Cotton Exchange, and New Orleans Association of Commerce, New Orleans, Louisiana.
North American Lace Company, Inc., 245 Fifth Avenue, New York 16, New York. (For the American Amalgamated Lace Operatives of America of Philadelphia, a union, and the American Lace Manufacturers Association of Providence, Rhode Island.)
Trans-Atlas et Cie Ltd., 343 South Dearborn Street, Chicago 4, Illinois.

[1] One statement presented for both.

EXHIBIT VI–A

STATEMENT BY WILBERT WARD, VICE-PRESIDENT, NATIONAL CITY BANK, NEW YORK CITY, REPRESENTING THE U. S. CHAMBER OF COMMERCE, BEFORE EXECUTIVE COMMITTEE ON ECONOMIC FOREIGN POLICY FEBRUARY 25, 1947

First, speaking in behalf of the Chamber of Commerce of the United States, I should like to take advantage of this opportunity to say that we feel that the Department of State should be commended for having taken the initiative in formulaing a program for the expansion of world trade and employment, in drafting a suggested Charter for an International Trade Organization of the United Nations based on the principles underlying that program, and, finally, for its success in securing substantial acceptance of this draft Charter by the Preparatory Committee of the International Conference on Trade and Employment at its session in London last Fall.

The continued substantial flow of foreign trade and investment, a recognized part of our own national prosperity, and the idea of freer, nondiscriminatory multilateral trade, which is clearly favored in declarations of Chamber policy—objectives of the program sponsored by the Department of State—are principles which we heartily endorse.

From its first public announcement in December, 1945, through its various stages of development—the original "Proposals", the "Suggested Charter", and, finally the "Revised Draft Charter" emanating from the London Conference—the National Chamber has followed the program with active interest. A detailed analysis of the latest draft has been made within the Chamber by representatives of the various interested departments. A report has been drafted containing a statement endorsing the objective of an International Trade Organization, and this received the approval of the Board of Directors at its meeting on January 24, as in furtherance of Chamber policy, and appearance at this hearing was authorized.

I will read you this statement:

"The Chamber of Commerce of the United States, by vote of its members, has declared its support for an international organization to maintain peace and security among the nations. The United Nations, despite the strains to which it is being subjected, is the beginning of possible world accord and holds the hope of mankind. It has the full support, recently reaffirmed, of this Chamber.

"Within the framework of the United Nations it is now proposed to establish the International Trade Organization as one of the member bodies of the Economic and Social Council, to complement the International Monetary Fund, the International Bank for Reconstruction and Development, and the several commissions studying various phases of the related social and economic problems of the nations.

"The International Trade Organization will be, particularly, the agency of the United Nations most directly affecting business. The purpose of the organization is to provide for collaboration, consultation, and negotiation among the nations on various matters affecting international trade and commerce, to the end that the interchange of goods and services may be greatly increased, with the elimination, through such consultation and cooperation, of economic dislocations and barriers of trade.

"The Chamber of Commerce of the United States fully supports the objective of an International Trade Organization, recognizing that the nations must jointly concert the enlargement of trade in a non-discriminatory basis, with the eliminations of barriers and unnecessarily restrictive practices. It is the Chamber's belief that the proposed organization, which now is being formed, can contribute greatly to the formulation of sound principles in the field of general business policy.

"The Chamber is not prepared at this time to support all the provisions of the draft charter, as adopted at the London meetings of the 18 nations in 1946. After its redrafting, this Charter will come before the formative conference soon to be held in Geneva. The Chamber urges the United States negotiators to seek in the redraft and in the future conferences most positive declarations in behalf of the maintenance of private initiative and enterprise in world commerce, tenets which are the basis of American business policy and to which this Chamber has affirmed its adherence many times. We believe also that the United States negotiators should oppose any activities by international organiaztions which would preclude our freedom of action with regard to domestic policies.

"But it is obvious that the Chamber regards the International Trade Organization as a possible force for great good in world commerce and that it is a desirable adjunct to the machinery of international cooperation with the United Nations. Its formation is a logical step in the development of a peaceful world."

As indicated in the statement that I have just read, the Chamber of Commerce of the United States is unable to give complete endorsement to all the provisions of the draft Charter for an International Trade Organization, as it now stands. The proposed Charter has already undergone considerable change and will doubtless undergo further alteration as a result of the second session of the Preparatory Committee to be held at Geneva in April and the general International Trade Conference which is scheduled to meet in the fall. Availing itself of the repeated invitation of the Department of State, the Chamber intends by the deadline date of March 1, to submit a written statement containing specific suggestions as to possible changes, additions and deletions, for the consideration of the Executive Committee on Economic Foreign Policy.

* * *

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA

Washington 6, D. C.

To the Executive Committee on Economic Foreign Policy:

In conformity with the support that the Chamber of Commerce of the United States has consistently given to the United Nations, which was created to maintain peace and security among the nations, it now specifically declares its approval of the objective of an International Trade Organization. The Chamber believes that the development of a common code for the conduct of international trade, based on the principle of nondiscriminatory multilateral economic relations, with the elimination of barriers and unnecessarily restrictive practices, is essential for insuring a high and expanding level of income both at home and abroad and for the establishment of the economic foundations of enduring peace.

The National Chamber, however, is unable to give blanket endorsement to all the provisions of the draft Charter for an International Trade Organization, as it now stands. The proposed Charter has already undergone considerable change and will doubtless undergo further alteration as a result of the second session of the Preparatory Committee to be held at Geneva in April and the general International Trade Conference which is scheduled to meet in the Fall. The Chamber, herewith, avails itself of the repeated invitation of the Department of State to set forth its more important criticisms of the draft Charter.

BASIC PRINCIPLES

By way of introduction, it seems appropriate to enunciate certain basic principles which the Chamber believes the United States negotiators of the International Trade Organization Charter should bear constantly in mind.

In any attempt to realize the objective of the organization, the emphasis should ever be upon the release of those natural and powerful regenerative forces latent in able and energetic men and women of all lands, which alone, given reasonable freedom to operate, can and will bring about the world recovery for which we all yearn. The Chamber believes that these forces operate most effectively under private enterprise. While recognizing that other nations follow other courses and that our representatives must be afforded latitude in dealing with them, the Chamber urges that our voice and our vote shall at all times favor *private*, in preference to Government, enterprise; *free*, in preference to controlled, enterprise; and *competitive*, in preference to monopolistic enterprise—and that no concessions be made which would involve the United States in operations which violate these principles.

Moreover, the Chamber's endorsement of an International Trade Organization is based upon the understanding that it would act as a research, consultative, and negotiating body. Our negotiators should oppose any delegation of authority to the Organization which would preclude our freedom of action with regard to domestic policies.

SPECIFIC CRITICISMS AND SUGGESTIONS

Chapter III, Employment

After carefully weighing all the printed matter available on this chapter, including the Report of the London session of the Preparatory Committee, we still have certain misgivings about it. While it is true that the language of the

chapter does not give to an international agency authority to interfere in the domestic affairs of any country, the line of demarcation between what are purely domestic affairs and what are or may become affairs of international concern seems pretty thin. Moreover, affirmative international action going beyond consultation and advice seems to be indicated. It is suggested that it would be better to place a period after "Members," in the third line of Article 3 (2),[1] omitting what follows.

The language is in places vague, lending itself to varying interpretation. Cannot something be done about this?

Chapter IV. Economic Development

Much that is contained in this chapter seems superfluous or undesirable. It would seem desirable to confine it to what appears in Article 10 and Article 12 (1) and (2). It does not appear proper to go beyond this, including plans, means and government assistance. If it remains, the wording of Article 11 (3) should be changed. As it stands, the International Organization is not only to advise Members, on request, concerning plans for economic development but to provide technical assistance in completing their plans and carrying out their programs. Article 12 (3) requires clearer definition of meaning. Members (which are national governments) agree to provide facilities for the economic development of other Members "within the limits of their power to do so." (What does this mean?) The providing of technical assistance or facilities should be the function of private enterprise, not of government, national or international.

Article 12 (5), it is felt, does not adequately protect private entities rendering technical assistance in economic development

Chapter V. General Commercial Policy

In general, there is close agreement between Chamber policies and the provisions of this chapter of the draft Charter; however, the statement of sound rules or principles regarding quotas, exchange restrictions, etc., is followed by so many exceptions as to permit prolonged continuance of most of the practices we are trying to end. A need of definite termination provisions is felt.

As a means of providing through United States companies increasing aid and assistance to our commerce, it is proposed that Article 15 be amended to read as follows (words and phrases added are italicized):

1. The products of any Member country imported into, *and the services and facilities supplied to*, any other Member country shall be exempt from internal taxes and other internal charges higher than those imposed on like products, *services and facilities* of national origin, and shall be accorded treatment no less favorable than that accorded like products, *services, and facilities* of national origin in respect to all internal laws, regulations or requirements affecting their sale, *negotiation*, transportation or distribution or affecting their mixing, processing, exhibition, *performance* or other use, including laws and regulations governing the procurement by governmental agencies of supplies for public use other than by or for the military establishment. The provisions of this paragraph shall be understood to preclude the application of internal requirements restricting the amount of proportion of an imported product, *service or facility* permitted to be mixed, processed, exhibited, *performed* or used.

2. The Members recognize that the imposition of internal taxes on the products, *services and facilities* of other Member countries, for the purpose of affording protection to (the domestic production of) competitive *domestic* products, *services or facilities*, would be contrary to the spirit of this Article, and they agree to take such measures as may be open to them to prevent in the future the adoption of new or higher taxes of this kind within their territories.

Fear has been expressed that Article 24 provides for definite power to coerce the United States into reducing tariffs. At the same time there does not appear to be corresponding power to force other nations to abandon their even more restrictive practices. It is therefore asked that this Article be carefully studied and that any such possibility be eliminated.

Article 24 (1-c) propounds the idea that binding a low tariff or duty-free treatment shall be recognized as a concession equivalent in value to a substantial reduc-

[1] Reference is made to the mimeographed "Preparatory Committee of the International Conference on Trade and Employment," issued by the Department of State, 23 December 1946.

tion of a high tariff or preference. This appears to be an unwise provision waiving the idea of substantial equivalence in concessions.

Article 25 (2-g) makes possible the establishment of new state-trading monopolies. State enterprise and private enterprise are antithetical. It is regrettable to find so many exceptions to the fine principles stated in the Charter. State trading should be discouraged in every possible way.

The last sentence in the Proviso under Article 34 (2) should, it appears, be eliminated. There is no justification for assigning to the Organization this punitive power.

Chapter VI. Restrictive Business Practices

Under Article 42, Members of the Organization are obligated to take steps to insure that certain practices (defined in Article 39 (1)), commonly referred to as cartels do not take place. It is required that these practices must be shown to have "harmful effects on production and trade . . ." But the identical practice which will not be held to have such effects under the laws of other member countries, *will* be held to have such effect under the United States Sherman Act. Enforcement is therefore, possible in the United States because of this act, but most of the other countries have no corresponding law and many do not even condemn such practices. Can they be depended on to live up to their obligations? Should we thus obligate ourselves without greater assurance that others will be similarly bound?

Under Article 45 (1-a) it is not clear why intergovernmental cartels are excepted from the provisions against the harmful effects thought to be present in private agreements. It appears that intergovernmental agreements are far more likely to have the effects described.

Chapter VII. Intergovernmental Commodity Arrangements

It is feared that a system of Intergovernmental Commodity Agreements, once established, will be perpetuated and expanded. The controls attendant upon a permanent international "OPA" is something to be avoided. United States delegates should hold to the position that these arrangements should apply only to primary commodities in burdensome surplus, be resorted to in a minimum number of cases, and be terminated as quickly as possible.

Articles 52 (3) and 60 (1) need to be brought into line with these principles. Under Article 60 (3) why should the same type of agreements between governments practicing state trading be excluded?

Under Article 53 (6) it is suggested that instead of ". . . shall adopt a program of economic adjustment . . .", it would be better to say, ". . . countries agree to seek methods of economic adjustment in accordance with their laws . . .".

The Chamber of Commerce of the United States hopes that these views will be given serious consideration and will be acted upon in the negotiations in the forthcoming conferences.

The proposed International Trade Organization, based on a sound Charter, can exercise a powerful influence in the development of sound business policy and contribute greatly to a more peaceful world.

CHAMBER OF COMMERCE OF THE UNITED STATES,
WM. G. JACKSON, *President.*

FEBRUARY 27, 1947.

EXHIBIT VI-B

(National Association of Manufacturers, March 5, 1947)

PROPOSALS FOR ESTABLISHMENT OF AN INTERNATIONAL TRADE ORGANIZATION

The proposal to establish an "International Trade Organization" is basically in accord with a 1948 recommendation of the NAM. The NAM favors creation of "rules of the game—international standards for the carrying on of international trade—with all nations and their nationals subject to the same rules."

Summary of Major Observations and Recommendations on "Redraft" of Proposed Charter

(1) The "Redraft" stresses employment as a major goal; the major emphasis should be placed on increased productivity; the ITO should not seek to intervene in questions of "full employment" and other matters falling within the domestic jurisdiction of individual governments.

(2) The "Redraft" should be strengthened by specific and vigorous denunciation of public and private monopolies and cartels, including international commodity agreements.

(3) The "Redraft" should be strengthened by the addition of provisions for the protection of foreign investments against nationalization and confiscation, including a "Code of Fair Practices for the Protection of Foreign Investments."

(4) The "Redraft" should be changed so as to specifically condemn quotas, quantitative restrictions and subsidies as methods of peacetime foreign trade control. The statement that nations should agree to reduce tariffs should be limited to "unreasonable" tariffs.

(5) A provision should be inserted in the "Redraft" that foreign exchange controls should not be utilized to restrict international trade.

(6) It should be provided that state-trading enterprises should quote prices only on a "definite and specific basis."

(7) It should be clear throughout the proposed Charter that decisions of the ITO are "recommendations" and not "mandates" to member nations.

Basic Approach to International Trade Organization

In November 1945, the State Department published a series of "Proposals for Expansion of World Trade and Employment". These were subsequently redrafted, in such improved form, as a "Charter" for establishment of an International Trade Organization. This document in turn has now been replaced by a "Redraft" (sometimes called "Draft Charter") designed to accomplish the same objective. This latter document will be further modified by a drafting committee in advance of the second session of the "Preparatory Committee of the United Nations Conference on Trade and Employment" to be held in Geneva in April. At that time steps will be taken to prepare a final draft which will be submitted at an Intergovernmental Conference on Trade and Employment sometime in the winter of 1947–48. At the present stage, therefore, comments and observations must be related primarily to the "Redraft".

With the general idea of establishing an "International Trade Organization" we are wholly in accord. In 1943 the NAM declared—

"An International Board of Trade should be established as a fact-finding and advisory board. * * * The Board should undertake studies aiming toward a statement of international policies, which, if applied, would reduce trade barriers as far as possible under the conditions then existing."

The NAM further proposed that the International Board of Trade "should formulate and recommend international agreements in regard to:

(a) Restrictions on commerce ostensibly but not actually aimed at the prevention of contagious diseases and diseases of plants and animals;

(b) Uniform international procedures in such world trade matters as a system of customs, valuation, application of tariffs, consular invoices, and other consular activities.

(c) Improvement of international credit relations, including the formulation of a draft for an international agreement in regard to controversies and claims relating to international loans, trade, and investments;

(d) Prevention of cartel agreements among producers of different countries to restrict production, fix prices, and allocate markets;

(e) Relief of persons and businesses engaged in international trade from the inequitable burden resulting from international double taxation. This and other agreements resulting from the proposals of the International Board of Trade should provide for review by the World Court of alleged violations by any government."

We therefore welcome the proposal for the establishment of an International Trade Organization as designed to provide rules of the game—international standards for the carrying on of international trade—with all nations and their nationals subject to the same rules. This is a step forward.

The balance of this report will be primarily divided into two sections—the first dealing with general comments on the "Redraft", and the second dealing with more detailed and specific observations and suggestions.

It is our definite opinion that the United States and the world as a whole need an International Trade Organization to help remove chaos in international trade, to promote mutually beneficial international trade, and to thus assist in promoting world understanding and world prosperity, all of which would have the result of promoting the maintenance of world peace. We so believe both on the basis of idealism and for the primary purpose of protecting our own domestic economy.

At the present stage of efforts to formulate the precise basis for establishment of an International Trade Organization we feel that it is impossible to make any commitment as to whether the United States should join or stay out of the organization. It will certainly be necessary to carefully view the work done by the drafting committee in advance of the Geneva meeting before any decision in this respect could be made, and it may even be necessary to wait for the results of the Geneva Conference before determining the position which the NAM should take with reference to this country's membership or non-membership in the International Trade Organization.

At each stage of revisions the document will be carefully reviewed, in order to determine whether a sufficient number of improvements have been made to merit approval of the document as a whole, and to prevent possible failure and futility. The present draft is extensive in scope and in most places uncertain in meaning.

The NAM is at present working on such improvements of the draft charter of the ITO as will enable the ITO to become a center for the betterment of world trade. At the present stage we are not sufficiently advised as to what the document is going to be to attempt to pass a final judgment as to the attitude which American industry and the United States should take with reference to it. We hope it can be a favorable attitude.

General Comments

(1) We recognize that in the world of today and the near future many countries of the world do not have free enterprise. We do not seek to tell other countries how they should operate their economic systems—nor should they seek to tell us how to operate our economic system. And certainly we do not believe it is desirable for the citizens of this or other countries that state-controlled countries should deal only with each other, or that the free-enterprise countries should establish an exclusive trading bloc. We believe that such an International Trade Organization as is proposed can, if the member nations start out on a fair-play basis, do much to provide rules for international trade within which it will be possible for state-controlled economies and free-enterprise economies to exist side by side, and doing business with each other—for the two systems to work together.

We have no fear that state-controlled economies will prove superior. We should lose no opportunity to demonstrate the efficacy of free enterprise and the positive benefits of liberty. We have every confidence that any system of fair-play competition between the two economies will demonstrate convincingly that the system of free, competitive, private enterprise produces more and better things for more people than could any other system yet devised.

(2) As a general observation, the "Redraft" stresses employment as a major goal, but pays insufficient attention to the importance of increasing production (although an improvement in this respect over previous drafts). Relatively full employment may exist in some very poor countries, but living standards can be high only where there is high production and can increase only through increasing production. Only such increasing production can provide higher wages and salaries, with bigger purchasing power for the individual. This is the philosophy of American business. In a country with high living standards or one which is seeking to increase the general living standard, production must be the chief economic goal, and employment will be furnished by the process of production. Production is the basis of all prosperity.

(3) The "Redraft", as it stands, does not denounce public and private cartels as an economic evil, nor does it stress the importance of competition as a stimulant of progress and the creator of higher living standards. It is our firm opinion that cartelization is the antithesis of the American free enterprise system, with its basic principle that competition is the life of trade. Cartels foster monopolistic practices which strangle business, lessen production, and lower living standards.

We believe the "Redraft" should be modified to express the strongest possible opposition to international cartels, including international commodity agreements of a restrictive character. It should be recognized that private cartels are bad; that government cartels are worse, since they can use the collective and coercive power of government for their enforcement. Many industrial cartels are government-supervised. This adds government blessing and gives greater dignity and strengh to the cartel. Cartels supervised or operated by the government have an obvious authority behind them which makes them over-all powerful and not even subject to the law. As bad as privately operated cartels are, they can in some instance be attacked in the courts, and there is always the possibility, as well as the probability, of disgruntled members breaking away from them, as well as newcomers entering the field, with potential embarrassment to the cartel, and in all probability a suspicious public and a critical government. A government-sponsored cartel does not have these problems to face. An international governmental cartel is far worse as it multiplies and spreads the local abuses through all nations where it operates.

(4) Chapter VI is highly objectionable. It would extend international legal sanction to international cartels. The entire chapter should be revised to prohibit such cartels as did the suggested "Charter" presented by the United States at the recent London meeting of the Preparatory Committee. Article 42 of Chapter VI should be revised to provide that a member nation will be expected to prevent harmful practices occurring within its jurisdiction, but that it would not have power to control practices occurring outside its jurisdiction. It should also be provided that member nations should be required to take into account findings of the ITO that particular practices are not harmful. The ITO should have power to make findings concerning, and to initiative proceedings for the discontinuance of practice which are "about to have" harmful effects, instead of being limited to action after the effects have occurred.

Article 44 of Chapter VI should be changed to provide that no member shall take action under its local law prior to action by the ITO, or after such action, provided the ITO finds that the restrictive agreement is not harmful.

(5) If it is impossible for United States representatives to secure the elimination of Chapter VII dealing with Intergovernmental Commodity Agreements, then they should urge that—

(a) The coverage will be limited to specified agricultural commodities.

(b) Eliminate Article 47, paragraph 5, which would justify almost any commodity agreement on the pretext that it was needed for "conservation".

(6) It should be provided in the "Redraft" that a member nation should not use special penalties or other methods as a means of hindering its nationals from engaging in trade, travel, or pursuit of education in foreign countries, and that member nations should reciprocally permit nationals of other member states to enter their territories for the purpose of engaging in trade, travel, and the pursuit of education. The adoption and practice of this provision would materially assist in substituting mutual confidence for distrust and suspicion in the international relationship of nations and of their citizens. A country that does not permit its citizens to travel abroad and that does not open its own frontiers to foreign visitors is helping to sow the seeds of distrust and international friction.

(7) It should be provided in the "Redraft" that

(a) Each member nation should accord equal and non-discriminatory treatment of foreign investment and industrial enterprises, first, as between the investment and industrial enterprises of its own nationals and those of the nationals of foreign member nations. A "Code of Fair Practices for the Protection of Foreign Investments" should be included in the Charter.

(b) Each member nation should accord to nationals of other member nations treatment at least as good as that accorded to its own nationals, in respect to police protection, access to courts, and liability to taxation.

(8) There should be inserted as a major purpose "The safeguarding of foreign investment and the encouragement of capital to go beyond national boundaries."

(9) There should be eliminated the implication that the ITO would intervene in questions of "full employment" and other matters within the domestic jurisdiction of individual governments.

(10) The Charter should provide that a major goal will be the elimination of quotas, quantitative restrictions, and subsidies in international trade.

(11) The Charter should provide that member nations would not utilize exchange controls since they inevitably curtail international trade.

(12) It should be provided that state trading enterprises should quote prices only on a "definite and specific basis".

(13) At an appropriate place in the Charter it should be stated that the use of the word "members" means "individual member", as distinct and separate from the Organization, the Conference, or Executive Board, and that wherever the word "members" is used in the Charter, this will be the interpretation placed upon its use.

(14) It should also be specifically stated in the Charter that decisions of the ITO will be considered as "recommendations" to "individual members" and not as "mandates".

Specific Comments

CHAPTER I. PURPOSES

To the "Purposes" listed in Article I, the following should be added:

"The safeguarding of foreign investment and the encouragement of capital to go beyond national boundaries."

This should be stated as a general purpose; the necessary "spelling out" should be in Chapter IV. The ideas contained in the following paragraphs from the Final Declaration of the National Foreign Trade Convention, so far as not now embodied, should be incorporated in Chapter IV:

"The projection of American capital abroad in the form of loans and investments should be guided always by the concept of mutual benefit. The benefit derived by the United States from such loans and investments will depend on their productivity, and upon the consequent ability of the recipients to provide for their servicing and eventual repayment. The benefit derived by the foreign nations concerned will be determined by the purpose to which the funds are dedicated, and the effectiveness with which they are utilized.

"Effective utilization of imported capital implies that no restrictions will be placed upon the use of the best techniques available, or upon the employment in technical and administrative capacities of competent local and foreign personnel. It implies also that fair and non-discriminatory treatment will be accorded both to the capital itself and to any foreign personnel employed.

"The Convention recognizes that it may sometimes be desirable for American enterprises abroad to permit or to encourage the participation of local capital. It holds strongly, however, that the final decision as to whether or not such participation is desirable should be determined solely on the basis of merits of the case as the owners of the enterprise may appraise them. In no event should such participation be required by law, nor should responsible officials of the United States Government bring pressures to bear which would seek to deny the right of American management to follow the course dictated by its own best business judgment."

The original Proposals include the following under the "Purposes" of the Organization:

"To facilitate access by all members, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity."

The NAM recommends that this should be reinserted and revised to read:

"To enable all members to purchase such raw materials as are available for export at going market prices without discrimination."

The specific changes proposed by the NAM were supported by this detailed explanation:

(a) The phrase "needed for their economic prosperity" has been deleted because it is vague and opens the door to wide abuse and international conflict. Would each nation decide what it "needed"? Would it urge that some other nation "needed" less so the first nation would have more? Would the International Trade Organization decide what every nation "needed"? And if so, on what basis? The application of almost any basis would result in charges of discrimination and in resulting friction and discord.

(b) We therefore propose that the access to raw materials be by "purchase * * * at going market prices." This would prevent barter arrangements on the one hand and price discrimination on the other.

(c) We prefer the term "without discrimination" to "on equal terms".

(d) As worded in the original "Proposals," it would not permit a nation to determine what amount of its natural resources should be reserved for domestic use, or what proportion should not be utilized at all. The wording we suggest—

"available for export"—permits a nation to provide for conservation of a natural resource, and to determine what portion can be exported. This is safeguarded, however, by providing that the amount exported must be by "purchase" and "at going market price" and "without discrimination".

The word "unreasonable" should be inserted before "tariffs" in line 3, paragraph 4.

The word "productive" should be inserted before "employment" in the sixth line of paragraph 4.

CHAPTER II. MEMBERSHIP

It would seem that little criticism can be made against the membership provisions, which, as in the "Charter", are broader than those in the "Proposals".

It is noted that the "Redraft" provides for the inclusion of (1) nations which have not participated in the International Trade Conference to be accepted for membership, subject to the approval of the Conference; and (2) membership for the United Nations on behalf of the trust territories for which the United Nations is administering authority.

We believe that subsequent revisions should retain provisions for broad eligibility for membership in the ITO.

CHAPTER III. EMPLOYMENT

While foreign trade obviously involves employment in industry, commerce and agriculture, we believe that the ITO should not address itself to technical labor problems, but rather to assume that such problems will be properly handled by the appropriate national and international organizations created for that purpose.

In addition, to this general recommendation, we present the following specific suggestions:

Article 3. Relation of Employment to the Purpose of the Organization

This Article is subject to the criticism previously expressed by the NAM in regard to the employment provisions of the Charter, namely, that the major emphasis should be placed on production rather than employment. The NAM holds to the belief that increased and more efficient production is a prerequisite to the attainment of higher living standards and to the provision of useful employment opportunities to all who are able and willing to work. While the NAM welcomes the emphasis placed in this Article on *useful* employment opportunities and on the avoidance of under-employment, rather than on "full employment", it holds that the efficient production and interchange of useful goods and services are the significant elements in an expending international trade, rather than employment per se. This should be positively stated in Article 3.

Furthermore, the NAM considers unwarranted the entering into an agreement by the United States, as a member of the ITO, that domestic measures for the achievement and maintenance of effective demand and employment should be "supplemented by international action sponsored by the Economic and Social Council of the United Nations"; and questions whether this is not in direct conflict with Paragraph 7, Article 2, of the United Nations Charter, which reads: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the members to submit such matters to settlement under the present Charter."

Article 4. The Maintenance of Domestic Employment

The following revision should be made:

"The members recognize that high production is the basis for high employment, and each member shall seek to attain and maintain high productivity and thus high employment within its own jurisdiction through measures appropriate to its political and economic institutions."

It will be noted that the change suggested puts emphasis on "high production"; that it clearly provides that action taken shall be by each individual member nation, eliminating any idea that such action shall be undertaken by member nations collectively. So far as the United States is concerned, the implication would clearly be one of agreement with the following position stated by President Truman in signing the Employment Act of 1946:

"Democratic government has the responsibility to use all its resources to create and maintain conditions under which free private enterprise can

operate effectively—conditions under which there is an abundant opportunity for those who are able, willing, and seeking to work.

"It is not the government's duty to supplant the efforts of private enterprise to find markets, or of individuals to find jobs."

Article 5. The Development of Domestic Resources and Productivity

The wording of this Article, as now written, removes the implied threat of international interference with domestic employment policies to which the NAM objected in Article 5 of the original United States draft of the Charter.

Article 6. Fair Labor Standards

American industry and labor doubtlessly will applaud the motive behind this Article, namely, the elimination of unfair competition in the production of goods for export by industries in nations where labor conditions are sub-standard. It must be recognized, however, that it is not advisable to have some central world body seek to define what constitutes a "sub-standard" condition in any country, thus interfering with the sovereignty of individual countries. In addition, there would be important economic and social difficulties in establishing such standards to be applied to countries throughout the world in different stages of economic development and often with widely varying conditions within their own borders. Moreover, the conception of what should be considered fair labor standards differs among nations. Furthermore, it is open to question whether the ITO would not be infringing upon the functions of another United Nations organization, the ILO, if it attempted to eliminate these sub-standard labor conditions.

Article 7. The Removal of Maladjustments in the Balance of Payments

We do not know what this Article means. (The subject matter of this Article is also dealt with in Articles 26 and 28 in Chapter V). It might possibly mean that nations which habitually have favorable balances should assist other nations by cutting down their tariff, but it does not specifically say so. (It has been stated that there are four things that might be needed for implementation:

1. Increase imports;
2. Restrict exports;
3. Extend further credits;
4. Cancel debts).

Article 7 says that "nations which have a fundamental disequilibrium in their balance of payments (in the case of the United States, an excess of exports) will make their full contribution to action designed to correct the maladjustment." Just what this action might be is not stated in the Article. Because of great uncertainty as to the meaning of the Article, it should be eliminated. If it is retained, then the meaning should be clarified, and it should be made clear that the "contribution" in this case does not mean financial aid by the United States or any other country; or an obligation by any country to change its own laws.

Article 8. Safeguards for Countries Subject to External Deflationary Pressure (also dealt with in Section C of Chapter V)

This Article seems to open the way for nations which are "subject to external deflationary pressure" to set up import quotas to provide domestic employment. Whatever defense there may be for import quotas, they should *not* be used to export unemployment, i. e., to attempt to solve a domestic unemployment problem through the use of quotas, and similar devices which restrict production in other countries.

CHAPTER IV. Economic Development

With the general objects of this chapter the NAM is in accord since it had specifically suggested that there should be added to the original "Proposals" as a major objective of the ITO the following: "Give consideration to the natural aspirations of countries which are trying to raise their standard of living by industrialization, and such natural aspiration should not be prevented from fulfillment."

The "Proposals", as presented, did not sufficiently emphasize the importance of continued and necessary industrialization and general economic development of economically backward countries.

The International Business Conference in 1944 soundly observed: "As the countries of the world improve themselves economically, as they increase their productive efficiency, as they expand their purchasing power by developing their

resources, the pattern of world trade will change, but the whole tempo of trade and industrial activity in all areas will increase. The benefits of increased industrialization throughout the world are therefore recognized as applying not only to the areas where such increased industrialization occurs, but also to the world at large, including countries already heavily industrialized."

"Industrialization . . . should be understood to mean the progressive modernization of the means of production of those things which are essential to improve living standards."

"An important factor in this consideration is the ability of any national economy to absorb a program of industrialization in step with a balanced development of its whole economy. Economic dislocation will inevitably occur if too much industrialization is attempted too soon."

Article 10. The Importance of Economic Development

Article 10 proclaims as a general self-evident truth that "Members recognize that the industrial and economic development of *all countries* will improve employment opportunities . . . contribute to economic stability . . . raise levels of income", etc. While the NAM recognizes that an intelligent purposive program of industrial development can bring great benefit to a nation which possesses, or can readily acquire, the necessary capital, raw materials, technical skills, industrial techniques, and the many other elements of an industrial economy, it does not hold to the belief that industrialization, per se, is the answer to "all the ills that man is heir to" or that all men, everywhere, are necessarily happier or better when working at industrial pursuits rather than in agriculture or kindred occupations. Some nations will always find it advantageous to concentrate on the production and sale of agricultural and other primary raw materials, importing the greater part of the industrial goods which they require. The language of Article 10 should be modified to eliminate these uneconomic implications.

The NAM also suggests that it should be made clear that any economic development to be fostered and encouraged by the ITO should be productive in the sense that productive enterprise was once defined by Frank A. Waring, that is: "One which, under competition from similar foreign or domestic enterprises, without long-continued tariff protection or special privilege, can produce goods and services in qualities and quantities which yield adequate returns to capital, labor, and management."

Article 11. Plans for Economic Development

In its present form, Article 11 recommends that *all* members undertake to promote their continuing industrial development and is therefore open to the same criticism as has been expressed in regard to Article 10.

Point 3 in Article 11 should be modified to read as follows:

> "The Organization and its members, at the request of any member, shall advise such member concerning its plan for economic development, and, within its competence, shall advise such member as to how it may obtain technical assistance in completing its plans and carrying out its programmes."

The revision is made to eliminate vagueness as to the meaning and extent of the "technical assistance" which would be provided to help "complete plans" and "carry out programmes". Either, and particularly the latter, could involve vast and continuing ITO supervision and direction of the economic activities of a member country; there might be a terrific obligation and great cost. The statement that the assistance must be within the "resources" of the ITO, is not too reassuring since, if commitments were made, we could expect to see the officers of the ITO request increasingly large appropriations to carry out such commitments.

Article 12. Means of of Economic Development
(Paragraph 1)

In addition to the elements of economic development which are listed under this paragraph, there should be added the following: adequate transportation facilities, adequate supplies of fuel and electric power, and available markets for the goods to be produced.

(Paragraph 4)

This paragraph seems designed to reassure nations supplying investment capital that nations receiving the capital will "take no unreasonable action injurious to the interests of such nations, business entities, or persons." This paragraph is also tied in with Article 66 (5), which provides for "the development * * * of conventions and agreements with respect to any matter

within the competence of the Organization". The only other provision for the assurance of fair treatment for foreign capital is that contained in Article 61 (5), which is taken from the original "Proposals", and which says, among other things, that the Organization shall make recommendations for international agreements on the treatment of foreign nationals and enterprise.

Since the crux of the interrelated problems of industrialization, economic development, and maintenance of productive employment is the provision of adequate capital and technical skills, a more positive effort should be made to outline at least a skeleton code of International Fair Practice in the field of Foreign Investment. The alternative to assuring fair treatment for these direct foreign investments of private enterprise is to achieve industrial development through Government initiative, with consequent Government ownership and control of the means of production, leading, finally, to State Socialism and the abandonment of the free enterprise principle. In this connection, it is noted that the New York Herald Tribune, in its January 18, 1947 issue, stated that a resolution asking for such a Code of Fair Practice was now being circulated to Members of the United Nations Economic and Social Council by the International Chamber of Commerce. Likewise, the preamble to the "Proposed Foreign Economic Policy for the United States", which was adopted unanimously by the delegates at the 33rd National Foreign Trade Convention (December, 1946), recommended that "these considerations (the encouragement and protection of direct investments in foreign lands with specific provisions against expropriation without due compensation, and against discrimination in any form; the adequate protection of proprietary rights; the fostering of a free and unrestricted flow of capital earnings internationally, etc.) should be dealt with constructively, not only in Treaties of Friendship and Commerce entered into with individual countries, but also in an International Code of Fair Practices and Business Ethics, either incorporated in the Charter for an International Trade Organization, or standing on its own."

The NAM favors the inclusion of such a Code of Fair Practices, or at least its major outline, in the Charter for the International Trade Organization.

The following "Principles Governing Foreign Investments" are indicative of what NAM believes should be contained in a Code of Fair Practices.

I. Principles Governing Foreign Investments

1. *Mutuality of Interests.* Mutual benefit is the only proper basis for the movement of capital from one country to another. Capital should not move from the lending or investing country unless there is reasonable presumption that it will be safe and productive in the country of destination. Ordinarily, safety and productiveness are measured by the rates of interest or equity earnings necessary to induce owners of capital to send their funds abroad.

But benefit to the owners of capital is not enough. Trouble, misunderstanding, and eventual loss can hardly be avoided unless the capital is actually utilized in improving the economic life of the recipient country. All too frequently attention is principally focused on profit possibilities, whereas little or no attention is given to the effect on the standards of living, the employment market, the currency and exchange repercussions, and other conditions in the country where the investment is made. This is responsible for the widespread belief that foreign capital tends to be exploitative rather than constructive.

Many opportunities exist abroad for mutually profitable enterprises. American investors should concentrate their efforts on these opportunities and avoid commitments which are one-sided in their efforts or implications. The principle of mutuality of advantage is equally valid for proper use of capital at home, and accordingly should be observed.

2. *Creation of Foreign Exchange.* One important factor in determining whether a foreign loan or investment will be mutually advantageous relates to its impact on the currency and exchange situation of the country into which capital flows. Since interest and dividends must be paid in foreign exchange, it follows that an enterprise financed with foreign capital constitutes a burden on the currency and foreign exchange position of the country unless such enterprise either directly produces commodities or services which are exported, thus creating foreign exchange, or else facilitates the production of goods and services which enter into foreign trade and hence result indirectly in creating foreign exchange. If the production of foreign exchange from the loan or investment is greater than the service required for interest and dividend payments, the mutual advantage derived from foreign capital is correspondingly enhanced.

Investors may wish to repatriate their capital over a period of years, or at least be in a position to do so. This possibility emphasizes the need for placing foreign funds in those industries and enterprises which will support the foreign exchange, rather than act as a depressant.

3. *Exportation of "Know How."* Since capital is largely a product of technology, and since the United States is in the forefront of technological competence, it follows that exports of American funds which are not correlated with the most advanced methods of utilizing capital fail to realize full productivity for the importing country. If American capital sent abroad is not accompanied by American technicians, is not managed by fully competent foreign technicians, or is otherwise detached from the "know how" for its efficient application, both parties to the transaction fail to realize its full benefit. American owners of the capital fail the benefit from its full productivity, and the importing country does not obtain the degree of increased output which would be possible if the capital had been competently administered. In any case, countries which import capital should not impose restrictions on its technical application nor limit the foreign personnel which is necessary for its effective use. Furthermore, American investors should be wary of placing their funds in countries which impede the efficient application of capital.

4. *New versus Established Enterprises.* When capital moves across international boundaries for the purpose of stimulating the economy of the recipient country or even for the purpose of obtaining diversification of risk, whether political or geographical, the same principles apply as in the international movement of goods. Hence such flow of capital should not be subject to arbitrary barriers, provided the objective of transfer of capital is to become integrated with the economy of the recipient country and to create new sources of wealth and income.

Frequently, foreign capital is employed to rehabilitate, modernize, or extend business, such as utilities, railroads, or factories, in the capital importing countries. This is usually a proper manner of employing foreign funds.

No positive statement can be made as to whether American capital committed to foreign investment should take the form of full ownership or should associate itself with domestic capital in the country where the investment is made. There are advantages and disadvantages in each practice. Investors naturally will arrive at their own conclusions, depending upon specific circumstances, but should not be limited in their decisions by restrictive legislation, requiring local participation in equity capital. While local participation of capital may often be advisable, it should not be required by law. Such a restriction will tend to reduce the flow of investment capital into the country having such legislation.

5. *Enhancement of Value.* Foreign capital is most useful to the recipient country when it can increase the value of domestic products and domestic labor. This is possible in numerous instances. As examples, oil seeds can be crushed, ores can be concentrated, sugar and petroleum can be partially refined, and assembly plants can be established. Personnel in the capital importing country can often be taught more efficient methods and thus be helped to increase its own earning power. Enhancement of the value of natural resources and of human resources brought about by application of foreign capital is doubly advantageous. It increases the wealth and income of the creditor country as well as the country in which the investments are made.

6. *Concessions.* Few Americans understand the significance of the term "concession" as employed in many countries. Most people believe that when someone obtains a concession he gets something for nothing. Actually, a concession in most countries of the world is roughly equivalent to a franchise or contract, in return for which the concessionaire assumes very definite burdens. It merely "concedes" to the recipient the privilege of undertaking certain types of business under certain conditions. The concession only becomes valuable if profitable production follows authorization on the part of the state to undertake production.

7. *Integrity.* An additional abuse is difficult to discuss, but it is well known to everyone who has experience with foreign loans and investments. It involves political corruption. Unfortunately, officials of many countries accept or even demand personal compensation for performing their official duties. Investors who countenance such practices convict themselves of bad judgment as well as of bad morals. They immediately place themselves on the "sucker list" and become known as persons who can be shaken down. Refusal to participate in this ugly practice requires courage and character, but it pays handsome returns in the long run. For officials who will accept bribes have no limit to their avarice, and also

changes in governments mean new sets of officials who demand payment for merely doing their duty. It is an unending chain of loss and frustration.

8. *Tariff Policy.* Foreign loans and investments are not likely to show satisfactory results over a prolonged period of time if they must depend upon permanent tariff protection from the capital importing country. Industries and enterprises financed by foreign capital which are unable to exist except by means of continuing tariff protection are in a vulnerable position.

9. *Loans to Foreign Governments Undesirable.* There are few instances, except in attempting to prevent war or when conducting war, that loans to governments are appropriate, as in most instances governments contract loans for political rather than economic purposes, or else employ loan funds for economic purposes in an inefficient manner. The principle that governments are not, as a rule, desirable borrowing entities, applies to central governments and also to political subdivisions. Loans by governments to governments are ordinarily made for purposes of high state policy and should be considered as costs of war prevention or else as costs of actual war. Governments are not primarily economic enterprises. They do not feel compelled to balance income against expenditure. Their record in the faithful observance of contractual obligations is not favorable.

Loans to governments for purposes of currency stabilization are justified under certain circumstances, assuming that internal conditions within the borrowing countries are favorable, notably as regards currency policy and fiscal policy. In such cases loans for purposes of currency and exchange stabilization may be productive. These loans need not be of great magnitude. Stable currency and exchange are, of course, of first-rate importance in validating foreign loans and investments since stable currency and exchange are the necessary results of healthy fiscal and monetary policies. However, a fund of $8,800,000,000 as adopted by the United Nations Monetary and Financial Conference, is grossly excessive for purposes of mere currency stabilization, and probably would not achieve that end. The objectives of this fund must be evaluated from other points of view.

Loans to governments for the purpose of covering deficits are undesirable, and loans to governments for productive public works merit close study, as the term "productive public works" is frequently a cloak for purposes which are not so admirable. Furthermore, honest intentions on the part of governments for spending loan funds productively are seldom realized in the results obtained. More often the burden of debt is increased, without commensurate expansion of production and exchange availabilities. This is one of the major reasons for the high percentage of default in connection with loans to governments. In like manner, loans to corporations owned and operated by governments require special scrutiny and should be rejected unless a strong affirmative case can be made.

10. *Private versus Government Loans.* Another question which requires examination is concerned with foreign loans and investments financed by governments as compared with those financed by individuals and private investment organizations. It should be made clear that governments organized on the principle of economic and political freedom possess no capital aside from that which is obtained or validated through the imposition of taxes. Hence loans or investments abroad from the public treasury generally involve financial commitments by the government which the citizen was unwilling or financially unable to make with his own funds. In such cases, it is compulsory investment and is in direct conflict with political and economic liberty.

It may be urged that the United States government possesses large trust funds, accumulated through social security receipts, and otherwise, which constitute capital available for investment abroad. However, the law properly provides that these funds shall be invested in United States Government bonds, and the magnitude of our federal debt now affords an ample supply of such bonds to absorb government trust funds for the foreseeable future. Under no circumstances should these trust funds be considered as capital available for foreign loans or investments.

During the period of war it was proper and even necessary for the state to act quickly and aggressively. Financial support by the United States government to states which can contribute to the defense of our country and to ultimate victory over our enemies is equally legitimate with drafting our young men for the armed services and requisitioning industrial plants for the purpose of war production.

During a period of peace, however, loans and investments by the United States government in and to other countries involve both political and financial dangers.

This is equally true of corporations owned by the United States government and operating abroad. Serious problems of jurisdiction arise, onerous taxes may be imposed, expropriation may be invoked. In the case of petroleum deposits, for example, some nations prohibit by law the ownership or exploitation of such deposits by foreign governments or by corporations controlled by foreign governments.

Safe and attractive investment opportunities abroad are eagerly sought by Americans. Aside from the moral and economic unsoundness of forcing American taxpayers to make foreign loans and investments, which they might not make of their own initiative or volition, there is the presumption that the loans and investments undertaken by government have been examined and rejected, or would be rejected as unattractive by owners of private capital, and therefore are not good business risks. Or else there is the presumption that the American government has adopted policies which render unattractive the placement of funds abroad by private citizens or institutions.

11. *Technical Factors.* Numerous technical details must be favorable in order to justify the transfer of American capital to foreign countries. A few indications of what is required on balance for the establishment of enterprises in foreign countries are:

(a) Raw materials of proper quality and quantity and at competitive prices.

(b) Adequate and reliable sources for the economic production or purchase of power.

(c) Availability of national or foreign management and of labor with the necessary degree of skill.

(d) Labor laws and administrative practices which are fair and reasonable.

(e) Markets which are sufficiently broad and without undue problems of transportation.

(f) Tax systems and administrative regulations which permit the hope of earning and retaining an adequate return on capital.

(g) Access on equal terms and without restriction to sufficient foreign exchange to provide funds for interest and amortization payments on loans and dividends on equity capital.

(h) Over-all unit production costs which permit profitable operations.

12. *Political Climate.* Of equal importance is the political climate which foreign capital must encounter. Flow of foreign capital is not likely to be large, and mutual advantage is not likely to realize its full possibilities, if legislation and administrative practices do not accord equal treatment to national and foreign capital. At present some nations impose legal restrictions on the ownership or use of land by foreigners, the number or percentage of foreigners who can be employed, the nationality of directors and administrative personnel, the amount of foreign exchange which foreigners can obtain, and the conditions under which such exchange can be obtained. Certain difficulties or discriminations also apply to foreigners in connection with access to courts and as to standing before administrative bodies. All of these restrictions and disabilities tend to interfere with the normal flow of foreign capital to points where it could be profitably employed and also prevent the countries which resort to discrimination from receiving benefits which they might otherwise obtain.

13. *Political Instability.* Political instability in any country injures all countries but principally the country where it is prevalent. Foreign capital tends to stay away from such country or even to withdraw, and both domestic and foreign capital are prevented from making their full contribution toward improving the standard of living. Furthermore, diversification of risk, which is a benefit to both capital-importing and capital-exporting countries, is made difficult of application.

14. *Diminution of Risk.*—In general, both the amount of foreign capital available for investment and the advantage which will be obtained from investment of foreign capital are, in rough measure, inversely proportional to the risk which such capital has to encounter when it goes abroad. In some instances risk is so great that capital does not and should not flow at all. If excessive economic and political danger must be encountered, risk of loss must be compensated by possibility of gain. Under unusually adverse conditions it is better that capital stay at home until conditions exist so that foreign funds can be employed without such risk. Otherwise, the cry of exploitation is likely to be raised. Hence laws, administrative practices, or customs which attempt to prevent equating return on foreign capital with risk merely have the effect of postponing economic and social progress. Diversification of risk is desirable. But complete avoidance of risk is,

of course, impossible, and acceptance of risk, with profit or loss thereon in relation to the productive contribution which has been rendered, is the proper function of private investors who employ their own capital. Such risk-taking, however, is not a proper function of government.

15. *Attitude of United States Government.* While many countries conduct their governmental institutions on a high plane, this is not true of all. Expropriation without compensation, discrimination against foreigners, denial of justice, and other abuses have occurred in many countries where American nationals have had loans and investments. In such cases our nationals have a right to look to their government for support, and our government should afford that kind and degree of protection which is appropriate under the circumstances. Such protection has not always been forthcoming.

II. Application of Principles Governing Foreign Investments

In addition to the foregoing principles, which should be kept in mind in considering the place of foreign loans and investments in a healthy world economy, it is also important to consider the manner in which funds should be exported.

1. Flights of capital are always undesirable. They disrupt the economies of the country from which capital flows and the country where such capital comes to rest. Capital should move abroad only for purposes which will also result in improving the economy of the recipient country. Such country is entirely justified in adopting adequate measures for neutralizing the effects of flight capital.

2. There is a distinct advantage when foreign financing is in the form of equity capital, or actual ownership of productive enterprises, as contrasted with loans to such enterprises. Loans require fixed payments of interest and should also involve substantial sinking funds. Thus the service on loans becomes difficult and sometimes impossible during a depression or a period of sharply declining commodity prices. As default has serious political implications as well as economic disadvantages, every effort should be made to avoid this unfortunate situation. The best preventive measure is to have foreign capital take the form of equities, since default cannot then take place. Moreover, equity capital is most suitable for new ventures and for taking risks, which are essential to economic expansion.

3. So far as wartime and immediate postwar financial operations are concerned, a sharp distinction should be made between loans and gifts. Within the limits of proper judgment and depending on many political and economic factors, the United States may properly render assistance to countries which have been devastated. Immediate relief on the basis of demonstrated need should be handled by gifts, whereas permanent rehabilitation should be on the basis of loans or investments, and these should meet all reasonable tests of good faith and repayment. This statement of principles and their application does not deal with the return to their rightful owners of property which has been wrongfully acquired by enemy states. That subject is considered elsewhere.

4. Lend-lease agreements stipulate that the contracting parties mutually undertake to minimize trade restrictions in the postwar period. Such undertakings should not be permitted to become scraps of paper.

5. During the late twenties and early thirties short-term bank credits were frequently extended for purposes which required long-term capital. Every effort should be made to have the form of foreign capital in harmony with the purpose for which it is to be employed.

6. To the extent that foreign loans or investments take place, the United States must be willing to accept the connotations of such operations. American loans and investments in the twenties had an important part in producing the depression of the thirties, both because the financial operations themselves were frequently not justified, and also because both lenders and borrowers, and governments as well, had no clear realization of the international economic and financial effects resulting from these operations.

Inconsistency is involved if capital is sent abroad at the same time that public or private economic policies prevent interest and dividends earned on this capital from being sent into our country. Such receipt is possible only when foreigners are able and willing to render, and permitted to render, services of one kind or another, or supply goods, to Americans. When, in the future, capital is sent abroad, we must see clearly the means whereby the interest, dividend, and amortization on this capital will be received.

7. Although amortization payments on foreign long-term loans are desirable, and although loans and investments which take the form of listed stocks and

bonds may be repatriated, it is important to recognize that such loans and investments should not be made except on a long-range basis. Generally speaking, it is impossible to repatriate foreign loans and investments on a large scale and within a short time. Attempts to do this, usually cause serious damage to the capital importing country, as well as loss to foreign investors themselves. There are even times when it is undesirable to receive service on foreign loans or dividends on foreign investments, if such action adversely affects the productive economy of the capital importing country or disrupts its foreign exchange.

8. Private American capital for postwar reconstruction abroad and for the seasonal requirements of foreign economies is unlikely to be available if it is threatened with competition by financial agencies of the United States government or by international agencies operated by governments. There should be a legislative declaration to the effect that the United States Government and its agencies will retire from the field of such foreign loans and investments at the conclusion of the war.

9. American loans and investments in foreign countries at times take the form of listed securities of American companies which are traded on organized exchanges in the United States and in other countries. Moreover, American capital can at times be employed in purchasing securities of foreign corporations. In either case, it is desirable that American laws and administrative regulations be designed to encourage listing and trading in foreign securities, thus expanding the importance of the United States as an international financial center and giving practical effect to the concept of international financial cooperation.

10. Consideration should be given to the possibility of organizing a corporate or cooperative enterprise, privately financed, which could insure foreign credits, whether commercial or investment, in some such manner as now employed by reinsurance companies or by the Federal Deposit Insurance Corporation.

11. The Johnson Act forbids loans by American citizens to governments which are in default. No account is taken of the circumstances of default. Since that Act became law, there have been profound changes in external conditions and in the thinking of the American people. The world is now confronted with the problem of repairing the dislocations caused by the present war and should not be handicapped in that task by policies which are based on conditions produced by previous wars. Hence the Johnson Act should be repealed in order to permit the international flow of American capital in accordance with the business judgment of investors. However, judgment of investors should be based on full knowledge that many loans to governments have not worked out favorably.

12. An international convention, available for adhension by all states on equal terms, should be prepared, which would set forth the rights and obligations of the nationals of such states as subscribe to the convention, in regard to foreign creditors, foreign investors, and foreign debtors. The items which should be regulated in such convention, with no attempt at presenting an exhaustive list, include:

Measures which might prevent the fulfillment of contracts;
Foreign exchange restrictions;
Restrictions on the shipment of gold;
Restrictions on currency shipments;
Unilateral action in connection with contracts;
Unfair trade practices;
Discrimination and expropriation.

13. At present the machinery for dealing with controversies in connection with international loans and investments is entirely unsatisfactory. Such controversies concern wilfull or involuntary default, interpretation of contracts, exchange differentials, expropriation of property owned by foreigners, and many other matters. Frequently debtors are able to play one creditor against another, so as to prejudice the interests of an existing creditor by concluding arrangements with a new creditor. Finally, there are no instrumentalities for impartial determination of the facts in connection with international financial controversies, of arriving at just settlements, and of enforcing settlements which have been reached.

An international organization is needed as a repository of information in connection with international loans and investments, as a fact-finding body in case of disputes, and as a medium for conciliation and arbitration. In addition, such international body should devise and recommend to its member states penalties at the economic level which would automatically apply to states which refused to settle financial controversies in accordance with principles which have

been set forth in contracts or otherwise have already been agreed to or which refuse to give effect to settlements of disputes which have been made under the auspices of such international body.

This international body should review and finally determine international financial controversies among the nationals of the states which accept its jurisdiction, so as definitely to cancel debts which cannot be paid and re-establish on a current basis those debts which can and should be paid.

CHAPTER IV

Article 12

(Paragraph 5)

This paragraph provides that if complaints are received by the Organization charging that a Member has taken action inconsistent with its obligations under this Article, the Organization may "request the Members concerned to enter into consultation with a view to reaching a mutually satisfactory settlement." The mere act of consultation, however, is not enough. What is needed is a provision such as appears in Chapter V on Commercial Policy, stating that a finding by the Executive Board that a Member has failed to fulfill its obligations (including the obligation to desist from acts injurious to another Member, business entitity, or person supplying the offending Member with facilities for industrialization and general economic development) will release the Organization and its Members from their obligations to the offending Member, as listed under Article 11 (3) and Article 12 (2 and 3) and will withdraw any other benefits as conferred under Chapter V.

Article 13. Governmental Assistance to Economic Development

It is apparent that this Article represents a compromise between the viewpoint of the representatives of the less industrially-advanced nations and that of the United States delegation which was opposed in principle to uneconomic trade restrictions, especially the unjustified use of import quotas. While the NAM does not favor the creation of new industries of types which are unsuited to the economy of a given area, and which show no promise of being able to exist without artificial protection, it realizes that nations in the early stages of industrialization have usually considered it necessary to resort to some form of import restrictions to protect their infant industries. This has been true in our own country, where many industries still receive some form of tariff protection. Furthermore, considerations of national defense sometimes require a substantial measure of protection for certain industries. Therefore, there should be no argument with the views expressed in paragraph 1 of this Article.

Paragraph 3 outlines the procedure to be followed in the event that a Member proposes to employ "protective measures which conflict with any of its obligations under the Charter." This procedure takes the following steps:

(A) The Member nation informs the Organization of its intention to employ restrictive measures.

(B) The Organization informs, and entertains the views of, affected Members.

(C) The Organization carefully examines the proposal in the light of the opinions expressed by affected Members and in the light of the economic considerations involved.

(D) Negotiations are carried on between the applicant and the affected Members with a view toward reaching an agreement.

(E) If an agreement is reached, it will result in a full or partial release of the Applicant from its obligations under the Charter which might be in conflict with the action proposed.

There are two serious weaknesses in this section: first, the Organization leaves it to the Member which wishes to apply restrictive measures to determine whether such measures will conflict with its obligations under the Charter and voluntarily to advise the Organization of its intentions. The Organization, of course, should be free to make investigations on its own initiative, or on the initative of its Members, if the proposed action seems to conflict with the purposes of the Organization. Second, nothing is said as to what action the Organization will take if no agreement can be reached under Step (D) above.

It would seem that, if no agreement can be reached, the applicant should be notified that the action proposed is contrary to the obligations assumed by that Member and that, if the applicant persists in taking the undesirable action, the

usual sanctions will be applied (release of other Members from their obligations under this chapter of the Charter toward the offending Member).

CHAPTER V. GENERAL COMMERCIAL PROPERTY

The numerous concessions made in Chapter V as a whole, in the face of continuing undesirable developments in most countries of the world, indicate the exceptional need for realism at the present time. We realize that, while a statement of general commercial policy as is included in this chapter must be phrased in broad terms, it seems that this chapter now straddles the viewpoint of the Free Trading and State Trading countries to the extent that any type of foreign trade operation would be possible under the Charter.

It should, for instance, be made clear to other nations interested in the plans for an ITO that much of their difficulty of increasing exports to the United States is not due to American tariffs, but rather to inflated currencies abroad resulting in artificial exchange rates which make their apparent dollar prices seem very high. Furthermore, there are disturbed conditions in many countries abroad resulting in great loss of production where the people continue to be fed from the United States.

There are very strong forces in the United States working against capitalism, and these subversive elements should not be aided by any international agreements which would tend, not only to pile up more new and crushing taxes but, also, to expose this country to unnecessary foreign competition while labor and material costs are mounting. The domestic market in the United States is the richest gold mine in the world, and it should never be forgotten that it is nine times the export market.

Too little consideration has been given to the effect of exposing individual American business firms to collective purchasing policies of foreign governments. Such countries have, in the past, insisted with some success on purchasing contracts which seem impossible to many American firms. If they are aided by the proposed international trade agreement, they will, no doubt, be much more successful in the future than in the past. We will then see contracts signed with foreign countries which will have penalty clauses for delivery of 2% reduction in price for each week of delay with extreme penalties for small infractions in other performance, and with dangerous cancellation clauses.

The foregoing observations are based on past experience. It is hoped that a strong position will be taken by the United States representatives at Geneva to protect this country's nationals against the multitudinous forms of restrictions and coercion with which we have had past experience. We believe that such an International Trade Organization as is proposed can, if the member nations start on a fair-play basis, do much to provide rules for international trade within which it will be possible for this nation and other nations to do business with each other to their mutual advantage.

SECTION A. GENERAL COMMERCIAL PROVISIONS

Article 14. General Most-Favored-Nation Treatment

It is important to realize that Article 14 does not secure any protection against discriminatory practices in the field of foreign exchange control. It does not prevent the authorities in charge of foreign exchange control to resort to bilateralism, i. e., to allot to importers only such a quantity of a definite foreign currency as corresponds to the quantity received through exports to this country.

It is more important to realize that Article 14 does not secure to the members "most-favored-nation" treatment in the field of operations of foreign exchange control offices. It does not prevent a foreign exchange control office from resorting to what practically amounts to bilateralism.

In connection with Point 2 (b) we recommend that the following be inserted:

"We believe the United States should agree in principle to arrangements for gradual elimination of Cuban preference and should work it out in the pattern established within the Philippines."

Article 17. Anti-Dumping and Countervailing Duties.

Paragraph 1 of this Article should be revised to read as follows:

"1. No anti-dumping duty shall be imposed on any product of any Member country imported into any other Member country in excess of the amount by

which such product is valued for export purposes at a lower price, as compared with its price in the country of origin, in accordance with the following principles:

"The margin of dumping shall be understood to mean the amount by which the price of a product exported from one country to another is less than:

(a) the comparable price charged for the like or similar product to buyers in the domestic market of the exporting country, or,

(b) in the absence of such domestic price, the highest comparable price at which the like or similar product is sold for export to any third country, or,

(c) any other appropriate criteria of value.

In each case—(a), (b), and (c)—with due allowances for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability."

It is suggested that paragraph 5 in the "Redraft" be eliminated, since criteria of judgment are involved which cannot be accurately measured and which are open to all kinds of abuse. A new paragraph 5, reading as follows, should be inserted:

"5. No product of any Member country imported into any other Member country shall be subject to any restriction whatever when reimported in the original shape into the country from which it was previously exported. Its reimportation shall not be subject to any duty, embargo, license, or quota restriction. The amount of foreign exchange required for the payment of such reimportation shall be unconditionally allotted to the importer at a price which does not exceed the prices to be paid for foreign exchange by any other importer. Only such internal taxes and other internal charges are to be imposed upon such reimported products as are not precluded by Article 5."

Article 19. Customs Formalities

In paragraph 1, the words "an indirect protection to domestic products or" should be eliminated.

Article 22. Information, Statistics, and Trade Terminology

Foreign trade statistics are frequently misleading. If the appraisal of the goods imported and exported is based upon the effective market rate, it may change from day to day. There may be a considerable difference between the state of the foreign exchange rate on the day of importation or exportation, and that on the day at which payment is due. If the appraisal is based on the official rate, it is liable to sudden alterations in the event of a change is the official rate. To prevent such deficiencies, which may render the statistical information quite useless, all Members should agree to a uniform procedure in the elaboration of their foreign trade statistics. They should compute all values exclusively in terms of the same currency, e. g., of a stated weight and fineness of gold.

Paragraph 1 of Article 22 should be revised to read as follows:

"Members agree to make available promptly to the Organization, in as detailed and accurate a manner as practicable, in terms of the currency of the Organization, such statistics, etc. . . ."

Section B. Tariffs and Tariff Preferences

Article 24. Reduction of Tariffs and Elimination of Preferences

The principal observations to be made with reference to Section B are that foreign nations cannot reasonably expect to have United States tariffs reduced without making equal concessions, and, more important, that reductions in foreign tariffs will not mean very much to exporters of the United States unless a great many other foreign restrictions are curtailed.

Section C. Quantitative Restrictions and Exchange Control

We believe that Section C on Quantitative Trade Restrictions is too compromising in its attitude, recognising altogether too many "exceptions" in which quotas, embargoes, and other quantitative restrictions" might be legitimately maintained by Member nations on their export or import trade with other nations. The quota system and so-called quantitative methods of foreign trade control are half-way embraced in the "Redraft"—they should be unqualifiedly condemned as peacetime measures, and the members of the International Trade Organization should agree to abandon such practices.

Article 25. General Elimination of Quantitative Restrictions

Paragraph 1 is a general undertaking against resorting to prohibition and restrictions other than duties and taxes, particularly mentioning quotas and licensing measures. This general rule applies to both imports and exports, but is subject to exceptions which are so extensive as to leave too little substance to the rule. In fact, from a reading of the various exceptions, it is doubtful whether any existing quotas or restrictive controls could not be justified on one or several of the permitted grounds.

Although we recognize that quantitative restrictions and exchange controls exist in many countries, we are convinced that the goal that all countries should aim at, in pursuance of their own best interests, both individually and in cooperation with others, must be the elimination of such restrictions.

Paragraph 2 (a) relates to controls imposed to assist in the distribution of products in short supply, and the liquidation of surpluses owned by governments. These exceptions are to cease as of July 1, 1949, unless extended by the Organization for the maximum of six months for each such extension.

Sub-paragraph (b) excepts export restrictions on "foodstuffs and other essential products." This is susceptible of very broad inerpretation. It would be improved by limiting it to "foodstuffs, clothing, and shelter, and articles and materials directly involved in their production and distribution."

Exception (c) relating to classification and grading, is not objectionable, at least in principle. Exception (d) permits such restrictions as may be necessary to execute intergovernmental commodity agreements. Since such intergovernmental agreements and activities are objectionable in themselves, we also regard this exception as equally objectionable.

Paragraph (e) permitting quota restrictions on the importation of "any agricultural product" to implement domestic restrictions on production and marketing, or to "remove a temporary surplus". While it is difficult to follow the involved wording of this exception, we understand it to be related to the particular type of "planned economy" from which this country is presently trying to free itself, and therefore, regard this particular exception as definitely vicious. This type of restriction, inherently dependent upon the exercise of administrative powers under wartime or "emergency" statutes, should be promptly abandoned if our economy is to be restored to health. We believe the same considerations apply to nations which are normally buyers of our agricultural products, as to our purchases abroad for import and consumption here.

To summarize, the majority of the specific exceptions listed are objectionable or require further definition, in order to preserve some substance to the general rule against quotas.

The exceptions listed in this Article are intended to apply to specific categories of goods, or specific acts or circumstances affecting such categories. The succeeding articles are more general in effect.

Article 26. Restrictions to Safeguard the Balance of Payments

The authorization of the qouta to permit meeting financial commitments is reason which will, no doubt, be often, if not universally, justified by the debtors of the United States and Canada. The article serves to emphasize the moral and legal importance of settling international accounts.

Article 28. Exceptions from the Rule of Non-Discrimination

This Article deals with the "Monetary Fund", which cannot be altered by the Charter or by the ITO. We believe, nevertheless, that we should point out that a major source of interruption to international trade arises from foreign exchange controls, since they may result in insurmountable barriers. They tend to substitute virtual bilateralism for multilateral trade. We urge that Article 28 be modified by adding a declaration that even though technically permitted by the Monetary Fund, exchange control should not be utilized, since it inevitably curtails international trade. This is because every important transaction and every payment of interest and dividends to non-residents depends on the allocation of foreign exchange by the authorities. If foreign exchange authorities try to maintain an official rate of exchange valuing their own currencies at a substantially higher rate than the rate which would be determined by supply and demand, import transactions may depend on the readiness of the authorities to buy the exporter's proceeds in foreign exchange at a price above the official rate. Foreign exchange control hinders production by export industries, and thus decreases production and employment.

The attempt made in this Article to utilize the advantages of membership in the Fund, to aid in clearing export sales, illustrates how highly involved foreign business can become in the new era of world management. A six years' course in law and business administration, followed by much specialized experience in government and business, will face the foreign trader of the future.

There is too little known about the future of the Monetary Fund to justify this Article at present. It is too obscure to warrant much consideration.

For example, the clause "restrictions with equivalent effect to exchange restrictions" is so obscure as to be objectionable on that ground alone. Article VII of the Fund Agreement is entitled "Scarce Currencies", and naturally, the implication of this stipulation is that low quotas may be set on imports from nations whose currencies become scarce. It would seem, therefore, that the United States has a right to, and a paramount interest in, a clear definition of the circumstances under which this Article may be invoked.

Article 20 of the Fund Agreement relates to currencies of dependencies of Members, which may be tied to the par value of the Member's currency. If this is so, obviously, the maintenance of a stable currency relationship may suggest restrictions on trade with nations other than the mother country. Canalization of trade on political lines is not compatible with the expressed purposes of the Charter; even if such a policy is to be followed by any nation, we urge that the obvious and direct method of effecting that purpose is the imposition of tariffs, and it should not be disguised by resort to quotas or currency tie-ins.

In view of the fact that understanding of the regulations and mechanisms of the International Monetary Fund is necessarily limited, this Article may almost be regarded as a "joker" in its present form. We doubt the wisdom of including it in the Charter, but if retained, it should be amended to correct its present obscurities, and specifically, it should be provided that members of the ITO would adhere to the following principle:

"Each Member undertakes, for the settlement of international transactions, in fact freely to buy and sell gold, or foreign exchange, within the limits prescribed by Section 2 of Article IV of the Monetary Fund. If an emergency temporarily prevents a member from fulfilling this undertaking, it must not hinder the operation of the free market for foreign exchange."

It should be further provided if the Article is retained:

> "Members maintaining or establishing exchange restrictions should not undertake to enforce official exchange rates which differ from the rates at which foreign exchange is freely available."

Section D. Subsidies

Subsidies of one kind and another have existed in many countries, including the United States, for many years. Under such conditions it would obviously be impractical to imagine that they could all be suddenly removed.

This section should be strengthened by a statement that the ultimate goal is the elimination of subsidies in international trade, such elimination to be accomplished over a period of time and with as little loss and disturbance as possible.

It should be specifically recognized and stated that subsidies in international trade are uneconomic and have the net effect of contracting national income.

In this connection, we specifically recommend to the International Conference, which will consider the "Redraft", the following position adopted at the 1944 International Business Conference:

> "It is recognized that economic competition in world markets for disposing of a country's surplus by giving a subsidy, thereby enabling the exporters of surplus countries to compete in world markets, is not desirable."

Section E. State Trading

Article 31. Non-Discriminatory Administration of State Trading Enterprises

This section includes objectives which are most desirable. It is difficult, however, to visualize how State Trading as practiced by many members of ITO and Free Trading as recommended by the United States, can be reconciled.

The objectives are desirable, but the escape clauses which were undoubtedly included at the insistence of other nations provide legal means of accomplishing the real objectives for which their State Trading Organizations were set up.

Article 31 calls for non-discriminatory administration of State Trading Enterprises. Since State Trading and normal competitive trading are inconsistent in their relations with each other, how can State Trading be administered on a non-discriminatory basis?

Is it contemplated that a government setting up such a State Trading enterprise can be controlled? Who will have the detailed information on such transactions?

There should be eliminated the sentence in Point 1, reading as follows:

> "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, and also differential customs treatment."

Because of their very nature it is difficult to apply ordinary economic standards either in or to the operations of state-trading enterprises, and thus to determine whether they really are operating in a non-discriminatory manner, uninfluenced by political considerations. Nevertheless, we consider it desirable as a step in the right direction to establish such an equality of treatment standard for their operations. To further assist in establishing such operation of state-trading enterprises on a "commercial basis", it should be stipulated at the end of paragraph 1—

> "Price quotations by state-trading enterprises should be on a definite and specific basis."

Article 32. Expansion of Trade by State Monopolies of Individual Products

This Article contemplates price control for imports and exports (paragraph 1, (a) and (b)). What effective machinery could be set up to administer a price control system of this scope?

Article 32 is practical in the acknowledgment that state monopolies exist, but the wording is such that, although state monopolies are not actually encouraged, neither are they discouraged. It would be desirable to inject into this Article a specific discouragement against the establishment of additional state monopolies.

The rules and regulations in paragraph 2 covering the operation of state monopolies are definitely inconsistent with the objectives of the Charter and the reduction of barriers in international trade, and should be appropriately revised.

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

We do not believe it is economically sound or desirable to require, as in Article 33, that nations having a "complete or substantially complete monopoly of import trade" should purchase a minimum amount of goods from abroad, such amount "to be agreed upon". This would apparently permit the International Trade Organization to decide what minimum, in value and quantity and kind of goods should be bought by such nations from other nations. The principle is bad; such nations should be able to decide for themselves how much they wish to import. And if the principle can be applied to natons with "a complete state monopoly of foreign trade", it could also be applied to countries without such state monopolies—and we could then have the International Trade Organization seeking to tell each nation what minimum amount it should buy from each other nation. Because the basic principle is bad, we believe the Article should be eliminated.

Section F. Emergency Provisions—Consultation

Articles 34 and 35 provide escape clauses from the previous regulations. The procedure for consultation, assuming a substantial number of violations, would prove cumbersome, agreement would be very difficult and apparently no penalties exist. The question again becomes one of size and organization and the facilities and personnel required to administer such complaints as may be raised.

In connection with Articles 34 and 35, these clauses should be incorporated in the last part of Chapter V.

Section H. General Exceptions

This section permits adoption or enforcement by any member of measures to protect public morals, health, and a list of other goods or objectives, that could conceivably permit any country to legislate and conduct its international trade as it may deem necessary.

GENERAL COMMENTS ON CHAPTER VI, RESTRICTIVE BUSINESS PRACTICES, AND CHAPTER VII, INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

In considering the provisions of Chapters VI and VII of the preliminary copy of redraft of the Charter for an International Trade Organization, certain facts which do not appear on the face of the Redraft should be taken into consideration. These facts are:

1. When Chapter VI was being redrafted at the London Conference, only the United States and Canada, of all the countries represented at the conference, favored the inclusion of any provisions in respects of restrictive business practices. While it probably cannot be conclusively presumed that all the countries except the United States and Canada favor cartels in international trade, it would be folly for American business to overlook the fact that, in all probability, an overwhelming majority of countries in the United Nations Organization sees no objections to such restrictive business agreements, but, in fact, regard them as beneficial in the carrying on of so-called "orderly" trade; and

2. At the same Conference, the United States stood practically alone in endeavoring to restrict the use of intergovernmental commodity arrangements. The representatives of the United States at the conference were themselves confronted with a division of opinion in the United States respecting such arrangements. American manufacturers have been outspoken in their opposition. On the other hand, certain segments of American agriculture have expressed a preference for intergovernmental commodity agreements as proper media for stabilizing the prices of agricultural commodities. The United States, therefore, was placed in the position of having to recognize that an overwhelming majority of the countries and some of its own nationals favored such arrangements. In consequence, American representatives undertook to restrict the use of intergovernmental commodity agreements as much as possible in the light of the situation with which they were faced. This was a course of political expediency in which the fundamental question whether intergovernmental commodity agreements were good or bad as a matter of principle was lost sight of. In fact, American representatives interferentially conceded that such arrangements, within the boundaries of the restrictive rules established at the conference, were good in principle.

CHAPTER VI. RESTRICTIVE BUSINESS PRACTICES

Chapter VI is altogether too lenient toward "restrictive business practices". Its very word indicates that some agreements to "restrain competition, limit access to markets to foster monopolistic control" may be proper and allowed to continue to function. All such agreements are bad per se, and there should be no equivocation or double meaning in expressions on this.

The basic position of the NAM upon cartels has been thus stated by its Board of Directors:

"Cartel is another word for monopoly or trust which restricts competition and thus tends to raise prices to consumers. The National Association of Manufacturers stands squarely against cartels of every description, both private and governmental.

"The National Association of Manufacturers has always supported and advocated competition—free, competitive enterprise—as a working system which has given us the highest standard of living in the world and which offers more promise than any system ever tried in any country. It has opposed and will continue to oppose every attempt to restrict freedom of opportunity and freedom of competition in our domestic economy.

"However, the fact is that many government, other than our own, not only approve the cartel system but actually sponsor such restriction of competition and often play a very active part in its administration.

"The United States Government and the great majority of its business men are opposed to the cartel system. We, therefore, propose that the United States Government should take the lead and seek to promote voluntary agreements with other nations to prevent the formation or operation of international cartels and should seek the abrogation of those already established. We recommend that this attempt be made a high priority item on the agenda of the Economic and Social Council of the United Nations.

"Until the Government of the United States is able to make such anti-cartel agreements, United States foreign traders should be encouraged by government to operate in other countries in accordance with the internal laws and business

practices of such countries, and thus to participate in world trade on the same basis as nationals of other countries, without harassment from their own government. In other words, until other nations come to conduct their economies in this respect as this country does, United States traders should be free to follow the rules where they undertake to do business."

The basic economic objections to cartel have been well stated by Association officers as follows:

> "International cartels are *defensive* mechanisms. They represent weakness; not strength. They show that the industries or the companies involved are afraid to meet their own or other competition." (Robert R. Wason.)
>
> "If other nations choose to sanction cartels, we cannot complain, but they cannot force us to cartelize trade. We can compete as free enterprisers, hampered perhaps at the beginning, but in the long run favored because competition will spur us on while the lack of it lulls them to sleep." (Robert Gaylord.)
>
> "One of the important reasons for the high standard of living which our economy produces is the legal restraint which we place on monopoly cartels. Monopolistic practices always strangle business and short-ration the consuming public. The very fact that cartels limit production means that they increase cost. No group of men has ever or will ever sit around a table and fix low prices. Free, competitive, private enterprise is the only instrument that fixes low prices. It is essential to realize that, if private industry steps in to fix prices that consumers must pay, Government will step in to protect the consumers against the price fixers. When Government steps in to that extent, there is no possible way to prevent it from ultimately exercising larger and larger control over industry. In other words, whether they realize it or not, those who advocate cartels are laying the ground for government control of industry and, in the final analysis, nationalization of industry." (Herbert H. Schell.)

SPECIFIC COMMENTS ON CHAPTER VI

Article 39. Policy Toward Restrictive Business Practices

The Proposed Charter provides that Members will take appropriate measures individually or through the ITO to prevent the international trade business practices which restrain competition, limit access to markets, or foster monopolistic control *whenever such practices have harmful effects on*

(a) The expansion of production and trade;

(b) The maintenance in all countries of high levels of real income, or

(c) Any of the purposes of the Organization, (i. e., the promotion of solution of problems of international commercial policies and relations, the avoidance of recourse by members to measures destructive of world commerce, and the encouragement and assistance of industrial and economic development of member countries, and the promotion of national and international action for the expansion of the production, exchange, and consumption of goods, the reduction of trade barriers, and for the elimination of all forms of discriminatory treatment in international commerce).[1]

Members also agree that when the practice of:

(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 markets or field of business activity, allocating customers or fixing sales or purchase quotas;

(c) Boycotting or discriminating against particular enterprises;

(d) Limiting production or fixing production quotas;

(e) Suppressing technology or invention; and

(f) Extending these rights under patents, trade-marks, or copyrights to matters beyond their scope,

when they are engaged in or are made effective by an international combination of commercial enterprises either private, public, or a combination thereof, or by one or more private commercial enterprises, *and when* such commercial enterprises individually or collectively possess effective control of international trade among a number of countries or generally in one or more products, shall be subject to investigation under the procedure provided in the Charter, *if the Organization considers them to have or to be about to have the harmful effects above stated.*

[1] See Chapter I. Purposes.

In brief, the situation comes to this:

Member countries are obligated to prevent restrictive business practices in international trade if such practices have harmful effects on expansion of production and trade, etc., while *some of the practices* are subject to investigation by the Organization under stated limited conditions. Why the Organization is authorized to investigate to an extent less than members are obligated to prevent is not known.

It is said that the inclusion of the "harmful effects" clause was an effort to write the rule of reason into the Charter, but since the Organization as initially composed in all probability will favor overwhelmingly "orderly" cartelized trade, it is highly doubtful, to say the least, that the Organization, particularly in the early stages, will find any of the so-called cartels possessive of the condemned harmful effects.

On the other hand, this provision has one useful virtue: It establishes a permanent forum in which the views of American free enterprisers can be expounded almost continuously. It, therefore, furnishes a medium whereby American representatives, in due course, may convince the rest of the world that free and open marketing is superior to any cartelized system.

Article 40. Procedure with Respect to Complaints and Conferences

Members agree that the Organization shall:

(a) Arrange for conferences among particular members when requested by any member who considers that specific practices exist which have or are about to have harmful effects, *"if it (the Organization) considers such action to be justified."*

(b) Consider each written complaint submitted by any member or, with the permission of a member, by any affected national[2] of any member and prescribe the minimum information to be included in such complaints;

(c) Request each member concerned to obtain such information as the Organization may deem necessary, and then *determine whether further investigation is justified;*

(d) *If it is considered that further investigation is justified,* notify all members of each such complaint, request further information relative to the complaint *as it may deem necessary,* and conduct or arrange for hearings;

(e) Review all information and make findings as to whether the practices under review are harmful;

(f) Report to all members the findings reached and the information on which such findings are based, and if the findings are that the practices *have had* harmful effects,[3] request each member concerned to take "every possible action to prevent the continuance or recurrence of the practices", and *at its discretion,* recommend to the members concerned remedial measures to be carried out in accordance with their (the members') respective laws and procedures;

(g) Request all members concerned to report fully the action taken;

(h) Prepare and publish reports on all complaints dealt with, provided that the Organization may withhold publication *if it deems it advisable* and provided also that the Organization shall not, upon request of a member, disclose confidential information; and

(i) Report to all members and make public, *it is deemed desirable,* the action which has been taken by the members concerned.

It is to be noted that a large measure of discretion is lodged in the Organization in respect of all these procedural provisions. The Organization would be substantially stronger from the American point of view if such a large measure of discretion were not accorded to the Organization. We believe that it would be stronger *from the American point of view* because the primary virtue of this Organization from the American point of view is that it furnishes a forum for the constant expounding of the American point of view. It would seem that the Organization should be directed to arrange for conferences, to investigate complaints, to hold hearings, to request members to take preventive action and to publish reports, irrespective of its discretion in the matter. This is particularly true when the fact that the great majority of member countries favor cartels is taken into account. A cartel-minded Organization under the provisions as pres-

[2] Others than nationals may complain. The language is: "any affected person, organization or business entity within that member's jurisdiction."

[3] At this point, it is interesting to note that the words "or are about to have", appearing in Section (a) of Article 40, are left out here and out of (c), so that it is fair to assume that the Organization cannot request members to take preventive steps until after the horse is out of the barn.

ently written could practically stymie the calling of conferences, the investigation of complaints, the holding of hearings, and the request to members to take preventive action and then not to publish anything.

It is suggested also that this section of the Charter would be considerably strengthened by giving to the Organization the power to make findings concerning, and to initiate proceedings (request members to take action) for the discontinuance of, practices which "are about to have" harmful effects.

Article 41. Studies Relating to Restrictive Business Practices

In respect to this subject, it is provided that "the Organization *shall be* authorized to" do the things listed below. This implies that this authority will be extended at some future date. The provisions would be substantially strengthened with this implication eliminated by changing the language to read: "The Organization hereby *is* authorized and directed" to:

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

(i) Types of restrictive business practices in international trade; and

(ii) Conventions, laws, and procedures such as those concerning incorporation, company registration, investments, securities, prices, markets, fair trade practices, trade-marks, copyrights, patents, and the exchange and development of technology insofar as they are relevant to restrictive business practices, and to request information from members in connection with such studies;

(b) Make recommendations to members concerning such conventions, laws and procedures as are relevant to the members' obligations under the Charter;

(c) Arrange conferences, when requested by *members* for the purpose of general consultation on any matter relating to restrictive business practices.

In respect to this last item, we believe that the Conferences should be arranged at the request of *any member*. It is to be noted also that this section is probably inconsistent with the provisions above discussed that the Organization should arrange for conferences if the Organization considered such action to be justified.[4]

It also should be borne in mind that this Article empowers the Organization to launch immediately a world-wide investigation which might impose tremendous burdens upon business organizations operating in international trade. Even so, if the American position that it is opposed to cartels is to be taken as asserted in good faith, American business should not complain when the Organization is granted investigational power designed to assist in the elimination of the evils which American business has opposed.

Article 42. Obligations of Members

In order to implement the preceding Articles, each member undertakes to do certain things. These will be discussed separately because the particular wordings in each paragraph is of paramount importance. In the first place, each member undertakes to "take all possible steps by legislation or otherwise to insure that private and public *commercial enterprises within its jurisdiction* do not engage in practices which have" the harmful effects previously mentioned.

This language is susceptible to the construction that each member will require enterprises over which the member country has jurisdiction to cease practices in international trade when the practices themselves are not within the jurisdiction of that member country. If this construction is correct, and from the language quoted it is the most plausible construction to be placed upon the language, the United States would assume an obligation to require enterprises within its boundaries to cease practices in international trade between Austria and China, for example, although such trade did not involve in any way commerce between the United States and any foreign nation. This would mean assumption of extra-territorial jurisdiction not permitted under the Constitution unless the assumption of such jurisdiction could be accomplished pursuant to the treaty-making power. Very serious constitutional questions would be involved. It is believed that our government should not commit itself to any such undertaking and that paragraph 1 (a) should be changed to read substantially as follows:

Each member undertakes to "take all possible steps by legislation or otherwise to insure that private and public commercial enterprises within

[4] In this connection, see Article 40, sub-paragraph (a).

its jurisdiction do not engage in practices *within its jurisdiction* which have the harmful effects above mentioned.

Each member also undertakes "to take the fullest account of the Organization's finding, requests, and recommendations", in respect of business practices that have harmful effects "in the light of its (a member's) obligation under Article 39 in considering the initiation of 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 finds to have had" harmful effects.

As far as this Article goes, it is unobjectionable. However, in view of the practical problems with which American business is faced, it does not solve the whole problem or even touch upon it. The effect of this paragraph is that, if the Organization should find certain practices in international trade to be harmful, the United States would be obligated to prosecute American business concerns for engaging in such harmful practices within the jurisdiction of the United States. On the other hand, if the Organization should find that certain business practices were not harmful, the United States Government, or any other member government, for that matter, in its prosecution policy, would not be required to take into account a finding by the Organization that the practice was not harmful.

American business concerns could be prosecuted in any member country where they happened to be for engaging in business practices found to be unharmful by the Organization irrespective of such findings. It is difficult to see why, if a member country is obligated to take the findings of harmful effects into account, that member country should not be required to take findings of unharmful effects into account. The question arises whether the United States is going to try to eliminate international cartels by diplomatic persuasion or by trying to bludgeon them out of existence. It is a foregone conclusion that our government cannot bludgeon cartels out of existence but that, if it tries, it may destroy American foreign trade.

Each member country also undertakes to:

Establish procedures to deal with complaints, conduct investigations, prepare information and reports requests requested by the Organization, and generally assist in preventing harmful practices, these measures to be taken in accordance with the particular system of laws and economic organization of the member concerned;

Conduct such investigation as may be necessary and practicable to secure information requested by the Organization or to prevent practices having harmful effects;

Furnish to the Organization as promptly as possible and to the fullest extent possible information requested by the Organization, except confidential information affecting national security or production technique;

Report action taken independently or in concert with other members to implement recommendations made by the Organization and, in cases where no action is taken, to explain to the Organization the reasons therefor, and discuss the matter further with the Organization if requested so to do; and

Take part in conferences upon the request of the Organization.[*]

Article 43. Supplementary Enforcement Arrangements

Members, by mutual accord, may cooperate 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 the Charter.

This means that members may cooperate to make effective any remedial order issued by any prosecuting authority of any member, such as, for example, the Federal Trade Commission, or the Department of Justice, or a court in the United States. If such cooperative action is taken, the participating members shall notify the Organization.

Article 44. Continued Effectiveness of Domestic Measures Against Restrictive Business Practices

It is provided that "any act or failure to act on the part of the Organization shall not preclude any member from enforcing any national statute or decree directed toward preventing monopoly or restraint of trade.

[*] In Article 42, which deals with this subject matter, there is an error in drafting. Paragraphs 2, 3, 4, 5, and 6 have no subject. It was explained by representatives of the State Department that these paragraphs should have been lettered (c), (d), (e), (f), and (g). In the above analysis, the Article has been treated as though this drafting did not exist.

It is understood that this reservation was insisted upon by the Department of Justice of the United States. The plain meaning of this reservation is that the United States Government, or any other government, for that matter, of any member country may proceed to prosecute business organizations for alleged violation of so-called antitrust laws. Each member reserves the right to prosecute organizations within its jurisdiction or over which it may have jurisdiction in any manner for alleged violations of local laws, irrespective of a finding on the part of the Organization that the practices engaged in are not harmful, or to prosecute under local laws while an investigation is being conducted by the Organization.

In the light of the fact that the Organization as it will exist at first will probably be overwhelmingly favorable to cartels, this provision will work to keep American business enterprises in constant jeopardy respecting their international trade. American enterprises will have to operate in a world where cartels will have approval in most areas. Moreover, in case the United States Government should endeavor to restrict the operations of cartels in international trade through a program to enforce American antitrust laws, American business enterprises would be prosecuted for engaging in practices in foreign trade which were permitted under the laws and practices of most foreign countries. Thus, the United States Government would be arrayed against its own enterprises in the competitive struggle in the international trade field.

We know of no better way to defeat the long-range purposes of Chapter VI than the inauguration of such a policy, and our government's insistence upon such a reservation indicates plainly that our government favors such a policy. Moreover, we should not lose sight of the fact that, if our government can inaugurate such a policy under a provision of this character, any member country can do likewise. American business could be harassed both at home and abroad for doing the things generally done by all its foreign competitors in international trade. Once the foreign competitors of American enterprises "catch on" to the possibilities of this Article, American business may be in for far more difficult sailing in international trade than it now expects. Instead of preventing cartels, such a provision may strengthen those existing, because it would lead foreign competitors to strengthen cartels in the hope that the United States Government would prosecute Americans for engaging in cartel operations while the foreign competitors themselves went scot-free. Thus, American enterprises would be damned by their own government if they adopted the competitive practices employed by their foreign competitors or damned by business starvation if they did not adopt such practices. Wholesale damnation of American business solves nothing but the foreign competitors' problem of how to get rid of American competition.

As has been previously stated, the chief virtue of the Organization in its initial stages will be that it will give American representatives a forum in which to debate constantly the vices of cartelization and the virtues of free enterprise. Local prosecution of cartels will not be nearly so effective as open debate in ultimately effecting a change in international trade. It is suggested, therefore, that this Article 44 be changed to provide that no member shall take action under its local law prior to action by the Organization, or after action by the Organization if the Organization finds that the restrictive agreement is not harmful. American business should have the support of its government in being encouraged to trade in foreign fields in accordance with the laws and customs of foreign countries, at least until our government has been able to convince foreign countries to change the system under which they operate.

Article 45. Exception to Provisions of Chapter VI

The undertakings expressed in Chapter VI shall not apply to intergovernmental commodity agreements meeting the requirements of Chapter VII.

By the exception of such intergovernmental commodity agreements, the Charter in principle approves restrictive business arrangements and practices when such restrictive arrangements and practices flow from the provisions of intergovernmental commodity agreements promulgated according to rules laid down in the Charter. Thus, the Charter in effect states that restrictive agreements are all right if they are sponsored and managed by the government. If anything, restrictive business agreements sponsored and managed by government are more vicious than private business agreements. When governments enter into the field which should be left to business management, the government managers all too often are far less efficient than private managers. One of the fundamental objections to governmental interference in business management

is that ultimate authority is lodged in representatives who have no real responsibility for results. In other words, there is no hair off a government manager's back when a business enterprise goes bankrupt. Moreover, intergovernmental commodity agreements restrictive in nature contain all the vices inherent in restrictive business arrangements of any kind, no matter who the parties thereto are. If monopoly is bad when in the hands of private parties, it is bad when in the hands of government.

Then, too, intergovernmental commodity agreements are designed to superimpose a planned economy, and in the long run they are often productive of more violent economic diseases than the diseases they purport to cure.

It is also provided that the undertaking expressed in Chapter VI shall not apply to international agreements excepted in Article 50. International agreements excepted in Article 59 are those which cover intergovernmental commodity arrangements which relate solely to the equitable distribution of commodities in short supply or which cover those provisions of intergovernmental commodity arrangements which appropriately (whatever "appropriately" means) 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.

Irrespective of the exceptions, the Organization in its discretion may make recommendations to members and to appropriate intergovernmental organizations concerning any features of intergovernmental commodity agreements promulgated under the regulations of Chapter VII when such agreements may have the harmful effects previously described.

It is rather difficult to understand why this provision was inserted. Obviously, it is just so many words. There is no obligation on the part of any member country to do anything whatever respecting the recommendations made by the Organization, and it can be readily assumed that no member country would pay any attention to such recommendations, if made. The vice of all of Article 45 is that it endeavors to ride horses going in opposite directions at the same time. The article is an almost perfect example of the trouble encountered in substituting political expediency for principle.

Conclusions

The basic objections to Chapter VI as presently drafted are four:

1. American enterprises, should they participate in restrictive practices in international trade, which the Organization finds are not harmful, are left, nevertheless, subject to prosecution under American antitrust laws or under the laws of any member country, for that matter; whereas, their foreign competitors probably would be entirely free to continue to engage in such restrictive practices.

2. The United States and each member country appear to undertake, through the use of *in personam* power over their respective nationals or others within their borders, to prevent the employment of restrictive practices abroad found by the Organization to be harmful, irrespective of whether such practices have substantial or any effect on commerce from or to the United States or the member country.

3. Because of the discretion lodged in the Organization, the Organization is empowered to prevent any finding that any cartel is harmful; it is empowered to frustrate any attempt at any stage to effect discontinuance of the use of cartels through the Organization.

4. Intergovernmental commodity agreements promulgated pursuant to the provisions of Chapter VII are excepted from the provisions of Chapter VI.

Even if these objections are removed, Chapter VI could not be approved unless the Chapter is also revised to state in effect that "there should be individual and concerted efforts by members of the Organization to abolish and prohibit those restrictive business practices in international trade, such as combinations or agreements to fix prices and terms of sale, divide markets or territories, limit production or exports, suppress technology or invention, exclude enterprises from particular fields, or boycott or discriminate against particular firms."

There should also be inserted in Chapter VI a provision that "The International Trade Organization should formulate and present to member nations an international convention under which subscribing nations would forbid within their borders the formation or operation of international cartels (as defined in the previous paragraph). It should be understood that if a nation does not subscribe to the proposed convention, the International Trade Organization shall not expect

or request other nations to forbid their nationals from operating in such country in accord with its internal laws and business practices."

CHAPTER VII. INTERGOVERNMENTAL COMMODITY AGREEMENTS

Chapter VII advocates the rise of "intergovernmental commodity agreements" and sets forth general principles for their operation. In other words, it considers such intergovernmental commodity agreements or arrangements (ICA's) to be economically sound and desirable.

The basic position of the NAM is that such agreements are bad. Its position has been stated as follows by the NAM Board of Directors:

> "Public attention has been directed to cartels among private business enterprises engaged in international trade. There has been much less public recognition of the fact that agreements between governments for the production or distribution or pricing of raw materials, foodstuffs, or manufactured products are also cartels. We are against such agreements, not only because they displace the competitive system, but also because they put international trade in the hands of government where conflicts of economic interest directly involve the politics of national sovereignty and prestige."

Intergovernmental commodity agreements of a restrictive character dealing with commodities grown or existing within the boundaries of nations, which our Government, and the NAM, condemn in private international agreements, distort and impair commerce, transit, and trade.

They are especially to be condemned as an invasion of free enterprise, since the production, processing, and distribution of raw materials and foodstuffs are properly the responsibility of private management and operation.

In order to effectuate the controls of production, exports, stocks, and the allocation of markets, it would be necessary not only to control the producers of primary commodities, but the production, sales, and employment of every company using the particular product.

International Commodity Agreements deny the fundamental basis of the free enterprise system, the supremacy of sovereignty of consumers. The consumers, by their buying or abstention from buying, ultimately determine commodity prices and thereby the profit or loss of the enterpreneurs. The structure of prices determines the size of production in each of the various branches of production, A profitable industry tends to expand, an unprofitable industry tends to shrink. The marginal producers of an unprofitable industry, i. e., those producing the highest costs, are forced to discontinue production. Only those producers remain for which the market price is satisfactory. The others are compelled to turn toward those branches of production the expansion of which the consumers ask for. There is in this regard no difference between primary commodities and manufactured goods.

ICA's are uneconomic because by their very nature they aim at restricting output far beyond the restriction which the automatic action of the market (in eliminating the submarginal producers) would bring about. They aim at the substitution of monopoly prices for competitive prices. They aim at fixing these monopoly prices at a height at which production pays also for the submarginal producers. They raise average costs of production. They result in monopolistic exploitation of the consumers for the sole benefit of the producers. Raising commodity prices to monopolistic levels will not stimulate their purchase by the impoverished peoples of Europe, but will delay such purchase.

Even though he advocates a form of ICA, Dr. Alvin H. Hansen of Harvard University, former President of the American Economic Association, and an economic advisor to the United States Government, in his book, "America's Role in the World Economy", in Chapter 12, after reviewing various International Commodity Agreements, particularly the wheat, coffee, sugar, and beef agreements, admits:

"These experiences show clearly the difficulties and abuses to which commodity agreements are exposed. The price is usually fixed under the influence of the producing groups and is therefore likely to be established at a higher level than the long-term market situation would warrant. * * * When attempts to reduce production are made on an international or national scale, the cutback usually takes place on a historical basis, allowing each producer a percentage of his past production in the base year. Such an approach is undesirable because it takes no account of change. Inefficient production is maintained."

There is nothing in past experience with ICA's to justify the belief of Dr. Hansen that despite the evils which he admits have accompanied them that government economic planners can nevertheless devise ICA's which have only economically helpful results.

It is not true that government interference, through ICA's, is required to prevent excess supplies from accumulating. It is not true that, to quote the "Redraft", "production adjustments cannot be effected by the free play of market forces as rapidly as the circumstances require". (Article 47, paragraph 2.) What makes excess supplies accumulate and delays adjustments is precisely governmental interference or the expectation of such interference. It was not the free market that accumulated excess supplies of coffee, but the Brazilian government. It was not the free market that prevented the small planters of Sumatra from adjusting the size of their rubber production to market conditions, but the Dutch Colonial Administration.

ICA's of a restrictive character in such commodity fields as coffee, tea, cocoa, sugar, wood, natural rubber, and many other primary products, would manifestly hurt the interests of all citizens of all consuming nations.

ICA's are not something new. They have existed in the past. (It is interesting to note that the Soviet Government was a member of the prewar platinum cartel, the Intergovernmental Sugar Agreement of 1937, the Intergovernmental Wood Agreement of 1935. Professor Edward S. Mason of Harvard University in his book "Controlling World Trade", states (p. 15) that Soviet Russia has also been a member of international cartels in matches, asbestos, oil, electric lamps, phosphates, potash, and soda ash). The ICA's of the past have been based on just the type of restrictive devices which the "Proposals" admit will exist in the ICA's they advocate. One of the keenest students of ICA's, Dr. Joseph S. Davis, Director of the Food Research Institute, in 1945 told the House Committee on Postwar Economic Policy and Planning:

"International Commodity Agreements (ICA's) in the past have mostly been commodity control agreements, typically restrictive not merely in their devices, but also in their net effects on production, trade, and consumption" (p. 1703 of Hearings).

"The ICA's that are most widely discussed, or put forward as models for others, have been drawn up to deal with what appears as superabundance, actual or prospective. These bristle with restrictive devices—export quotas, and sometimes other export restrictions, often related production controls, sometimes formal regulation of stocks and prescription of minimum and maximum export prices, and sometimes special import quotas or other import restrictions. In practice, such ICA's have in no case solved the problem that gave rise to their adoption. Instead, they have tended to keep it alive and to keep on dealing with it. Unless substantially ineffective, they have typically tended to favor high-cost at the expense of low-cost producers and producing countries, to raise the costs of actual output, to limit the flow of abundant supplies, and to support prices at uneconomic levels . . . where successful, in any sense, their net effect has usually been to restrict production, consumption, and trade without removing excessive production capacity or reaching a position in which restrictions can be removed" (p. 1704 of Hearings).

Dr. Davis further stated that in practice governmental ICA's have been administered by "departments of the Government chiefly concerned with national agricultural policy or with dependencies . . . (They) have been too timid in the face of existing national policies, too restricted by red tape and formalities, and too prone to continue and reinforce existing government controls" (p. 1708 of Hearings).

In a document published in 1947 by the Committee on International Economic Policy ("International Commodity Agreements") Dr. Davis says (pp. 79–80):

"The obstacles to effective utilization of ICA's are still large and numerous; the hopes hitherto aroused seem clearly excessive; and ambitious schemes for widespread application of favorite prewar patterns, more or less modified, are illusory . . .

"In the postwar world as it seems likely to be, a network of commodity-control ICA's would fail to contribute toward international harmony and progress and would endanger progress if not create new frictions."

In view of the record and results of ICA's set forth by Dr. Davis, the burden of proof is upon those who advocate these cartelization and monopolistic measures.

SPECIFIC COMMENTS ON CHAPTER VII

What has already been said respecting intergovernmental commodity arrangements indicates plainly that the limited approval given to intergovernmental commodity arrangements by the provisions previously discussed and by all of Chapter VII and the reasons therefor are not sufficiently persuasive to effect a change of mind by manufacturers concerning such arrangements.

Article 46. General Statements on Difficulties Relating to Primary Commodities

Article 46 provides that the members recognize that the relationship between production and consumption of some primary commodities may present special difficulties.[6]

It is asserted that these special difficulties are different in character from those which manufactured goods present generally; that they arise out of such conditions as the disequilibrium between production and consumption, the accumulation of burdensome stocks and pronounced fluctuations in prices; that they may have serious adverse effect on the interests of both producers and consumers; and moreover, that they may have widespread repercussions which would jeopardize the general policy of economic expansion.

These statements purport to be statements of fact. The plain truth is that such statements are highly controversial and, at best, fall in the realm of opinion. Yet they form the basis for the approval of intergovernmental commodity agreements. In consequence, the whole chapter has a false foundation.

Article 60. Definitions

At this stage, it is well to recite the definitions of "intergovernmental commodity arrangement" and "regulatory agreement" because the respective rules applicable thereto are different. The definitions should be kept in mind.

An "intergovernmental commodity arrangement" is stated to be an accord between two or more governments relating to a commodity other than an accord relating to the purchase and sale of a commodity covered by the provisions respecting state trading.[7]

A "regulatory agreement" is stated to be an intergovernmental commodity arrangement involving regulation of the production, export, or import of a commodity or regulation of prices.

Article 47. Objectives of Intergovernmental Commodity Agreements

In Article 47, the members agree that intergovernmental commodity arrangements may be employed to achieve the following objectives:

1. To enable countries to find solutions to the difficulties above referred to without resorting to action inconsistent with the purposes of the Charter;

2. To prevent or alleviate 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;

3. To provide during the period which may be necessary a framework for the construction and development of measures which will have as their purpose economic adjustments designed to promote the expansion of consumption or a shift of resources in manpower out of overexpanding industries into new and productive occupations;

4. 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;

5. To maintain and develop the natural resources of the world and protect them from unnecessary exhaustion; and

6. To provide for expansion in the production of a primary commodity which is in such short supply as seriously to prejudice the interests of consumers.

It is hardly arguable that these objectives permit the use of intergovernmental agreements as media of manipulation to counteract the play of economic forces. Thus, the objectives in five of the six particulars would permit the superimposition of a complicated planned economy world-wide in scope. In the sixth instance

[6] Primary commodities are defined to be any agricultural product or mineral which enters world trade in substantial volume in a form customarily called primary. The term may include a primary commodity on which minor processing has been performed in preparation for export. It may also include a group of primary commodities which are so closely related to one another that they can conveniently be dealt with in a single arrangement. See Article 60.

[7] Section E of Chapter V.

(the fifth item above), the objective stated is a departure from economic stability to conservation of natural resources. This item, in the light of the general statement on difficulties relating to primary commodities, hardly belongs in this list of objectives, and should be deleted in any event. The conservation of natural resources in and of itself is a matter so complicated that it should be left free from international tinkering.

Article 48. Special Commodity Studies

A member substantially interested in the particular primary commodity which considers that special difficulties exist or may exist regarding the commodity may ask that a study of that commodity be made.

Unless the Organization resolves that a prima facie case has not been established, it shall promptly notify members or nonmembers interested in the commodity in question to appoint representatives to a study group.

The study group, "in the light of an investigation of the root causes of the problem",[8] shall promptly report its findings and, if it finds that special difficulties exist or are expected to arise, it shall make recommendations to the Organization as to the best method for dealing with the difficulties. The Organization in turn shall promptly transmit to members these findings and recommendations.

Article 49. Commodity Conferences

On the basis of the recommendations of the study group or on the basis of information about root causes of the problem agreed to be adequate by members substantially interested in the commodity, the Organization, promptly at the request of a member substantially interested, shall, or on its own initiative may, convene an intergovernmental conference for the purpose of discussing measures designed to meet the special difficulties involved.

Any member having a substantial interest in the commodity shall be entitled as a member of right to participate in the conference, and non-members similarly interested may be invited by the Organization.

If the conference recommends the adoption of any type of intergovernmental commodity arrangement, such an arrangement shall conform to the general principles below stated under that heading.

Article 50. Relations with Specialized Agencies

Competent specialized agencies such as the food and agriculture organizations shall be entitled to submit studies to the Organization or to ask that a study of a primary commodity be made. Moreover, the Organization may request any specialized agency which it deems to be competent to attend or take part in the work of any study group or of a commodity conference.

Since these so-called "competent specialized agencies" are accorded rights under the Charter, it would seem that they should be named with more particularity. It is assumed that any specialized agency, whatever it is, has such rights, if the Organization finds that it is competent. This is implied in a part of Article 50 and expressed in another part.

Article 51. General Principles of Intergovernmental Commodity Arrangements

Members undertake to adhere to the following principles governing the operation of *all types of intergovernmental commodity* arrangements.

1. Such arrangements shall be open initially to all members on terms no less favorable than those accorded to any other country party thereto and thereafter upon such terms as may be approved by the Organization;

2. Non-members may be invited by the Organization to participate in such arrangements under identical conditions;

3. 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;

4. In such arrangements, participating countries which are largely dependent for consumption on imports of the commodity involved shall have together, in determinations made relating to substantive matters, a voice equal to that of those largely interested in obtaining export markets for the commodity. Those

[8] We assume that it is meant by this quoted language that the study group shall investigate the root causes of the problem, but this is not clear.

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.[9]

Article 52. Circumstances Governing Use of Regulatory Agreements

Members agree that regulatory arrangements may be employed when:

1. A burdensome surplus of a primary commodity has developed or is expected to develop which, because a substantial reduction in prices does not readily yield to a significant increase in consumption nor to a significant decrease in production, would not, in the absence of specific governmental action, be corrected by normal marketing forces alone in time to prevent serious hardship to producers, among whom are small producers who account for a substantial portion of the total output; or

2. Widespread unemployment in connection with a particular primary commodity arising out of difficulties of the kind above mentioned has developed or is expected to develop, and which, in the absence of specific governmental action, would not be corrected by normal marketing forces alone in time to prevent widespread and undue hardship of workers because in the case of the industry concerned a substantial reduction of price does not 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

3. The Organization finds that for a commodity other than a primary commodity exceptional circumstances justify such action.

While these provisions seem to be restrictive in character, they present the question whether the modifying phrases require findings of fact as conditions precedent to the use of intergovernmental commodity arrangements or whether these modifying phrases are conclusions reached by the draftsmen as basic reasons for the use of the intergovernmental commodity procedure. The latter construction is certainly possible, and, if it is the correct one, the restrictions practically disappear. The restrictions are based on the assumption, too, which many would controvert, that specific governmental action is often a requirement in the stabilization of unbalanced economic conditions. Naturally, these provisions would be far less objectionable if these intergovernmental commodity agreements could be used only after the establishment, *as facts*, of the statement set forth in (1) and (2).

Article 53. Additional Principles Governing Regulatory Agreements

In addition to those principles above stated, members undertake to adhere to the following principles governing *regulatory* agreements:

1. Members agree not to enter into any new regulatory agreement unless recommended by a conference. If, however, there has been "unreasonable delay"[10] in the proceedings of the study group or of the commodity conference, members may proceed by direct negotiation to the conclusion of an agreement, provided it conforms to the other provisions of the Chapter.

2. Under such agreements, participating countries shall afford equitable treatment as between non-participating members and participating countries giving equitable advantages in return for the observance of equitable obligations.[11]

3. Participating countries shall afford non-participating member countries treatment no less favorable than that accorded to any non-member country which does not participate in the agreement.

4. Such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at reasonable prices.

5. 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 through which such requirements can be supplied most effectively and economically.

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[9] This particular item is loaded with phrases the meaning of which is doubtful. What, for example, does "largely dependent" mean? What is the meaning of "those largely interested in obtaining export markets," and what is meant by "countries largely interested but which do not fall precisely under either of the above classes"? How does one have an "appropriate" voice? This instance is cited as an example of the difficulty one encounters in paragraph after paragraph of the Charter. It is suggested that phrases of this character be clarified in order that the Organization may be more than a debating society concerning the meaning of words.

[10] It is not stated who is to make this finding of unreasonable delay.

[11] The agreement is silent on what "equitable advantages" are or what "equitable objections" are and who makes the finding in respect thereto.

6. Participating countries shall formulate and adopt a program of economic adjustment believed to be adequate to insure substantial progress toward solution of the problem within the time limits of the agreement.[12]

Article 54. Administrative and Regulatory Agreements

The machinery for administering regulatory agreements is established by Article 54.

1. Each regulatory agreement shall provide for a governing body referred to as a Commodity Council.

2. Each of the countries participating in an agreement shall be entitled to representation on the Commodity Council. These representatives alone shall have the right to vote.[13]

3. The Organization shall be entitled to appoint a non-voting member to each Commodity Council and may invite any competent specialized agency to nominate a non-voting member for appointment to each such 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 Secretaries of each 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. These rules and regulations shall be subject to the approval of the Organization.

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 expense of the Commodity Council shall be borne by the participating countries.

The possible vastness of the Organization's supervision of world economy is staggering. If a great number of commodity agreements are negotiated, it is difficult to see how the Organization could possibly administer them with the dispatch necessary to prevent the development of serious economic conditions. This machinery demonstrates once more the difficulty of at once approving intergovernmental commodity agreements and endeavoring to restrict their use or to oversee their administration through the establishment of one over-all agency. The agency, in order to do its work properly, would have to be omnipotent and omniscient.

Article 55. Provision for Initial Terms; Review and Renewal of Regulatory Agreements

Regulatory agreements shall be effective for not more than five years. Their renewal shall be subject to the principles previously stated. At intervals no greater than three years, the Organization shall prepare and publish review of the operation of each agreement. Each Commodity Agreement shall provide that if its operations have failed to conform substantially to the principles laid down, participating countries shall revise the agreement to conform or shall terminate the agreement. When the agreement is terminated, the Organization shall have charge of archives, statistical material and other possessions 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, questions shall be referred to the Commodity Commission for examination and recommendation to the Executive Board. The Executive Board shall then issue a ruling.[14]

Article 57. Obligations of Members Regarding Existing and Proposed Commodity Arrangements

Members undertake to transmit to the Organization the full text of each intergovernmental commodity arrangement in which they are participating at the time the Charter becomes effective in respect of them. Members also agree to transmit

[12] These provisions demonstrate the difficulty one encountered in endeavoring to justify intergovernmental commodity agreements in one breath and restrict them in another. Provisions for the implementation of these principles are difficult to imagine.

[13] The voting power of these representatives shall be determined to conform to the provisions of the fourth item discussed under the subject of general principles of intergovernmental commodity arrangements, however that can be done.

[14] The functions of a Commodity Commission are set out in Article 77 and provisions respecting the Executive Board are contained in Section B of Chapter VIII.

to the Organization appropriate information regarding the formulation, provisions, and operations of such arrangements. They agree to conform to the decisions made by the Organization regarding their continued participation.

Members undertake also to transmit to the Organization appropriate information regarding any negotiations of an intergovernmental commodity arrangement in which they are participating, at the time the Charter becomes effective in respect of them. They agree to conform with decisions made by the Organization regarding their continued participation in any such negotiations. The Organization may declare that such negotiations conform to the requirements for a study group or a commodity conference, as the case may be.

Article 58. General Undertaking by Members

Members not party to a particular commodity arrangement undertake to give the most favorable possible consideration to any recommendation by a Commodity Council for expanding consumption of the commodity in question.

"Most favorable possible consideration" are big words. Does this mean that England and France can make an intergovernmental arrangement in which the United States is not a participant, and that the United States will then eliminate all tariffs in respect of the commodity involved if the Commodity Council recommends that action to increase consumption of the commodity in question? This provision is far too general and could be the source of one dispute after the other. This is an instance where specification is most important in the interest of good will.

Article 59. Exceptions to Provisions Relating to Intergovernmental Commodity Arrangements

The provisions of this Chapter VII are not designed to cover intergovernmental commodity arrangements which relate solely to the equitable distribution of commodities in short supply or to cover those provisions of intergovernmental commodity arrangements which appropriately relate to the protection of public morals or to the protection of human, animal, or plant life, unless such arrangements are used to accomplish results inconsistent with the objectives of Chapters VI and VII. Members agree not to participate in such arrangements if they involve the regulation of production, trade, or prices, unless they are authorized or provided for by a multilateral convention subscribed to by a majority of the nations affected, or unless operated under the Organization.

None of the foregoing provisions of Chapter VII is to be construed as applying to arrangements relating to fissionable materials, to the traffic in arms, ammunition or implements of war, and to such traffic in other goods and materials carried on to supply a military establishment or in time of war or other emergency in international relations to the protection of the essential security interests of a member.

Conclusions

In respect of Chapter VII, the basic objection is that this Chapter contemplates the use of these agreements as a more or less general and continuing policy which entails the control by governments, through restrictive arrangements, of business which should be conducted, free from governmental interference in management, by private enterprise. Intergovernmental commodity agreements, particularly if they are regulatory within the meaning of those phrases as used in Chapter VII, are bad in principle. It is not sound to approve them in principle and then endeavor to restrict their use by (a) the establishment of principles of uncertain meaning and (b) the establishment of a vast international bureaucracy.

Chapter VII should be opposed flatly, and intergovernmental commodity agreements having or about to have harmful effects condemned just as strongly as private agreements. Private cartels are bad. Government cartels are even worse. The inclusion of a rule of reason in Chapter VI, it would seem, makes Chapter VII unnecessary, even for those who may urge the necessity for intergovernmental commodity agreements.

The most to which our government should agree in Chapter VII is a redraft thereof which

1. Limits the coverage thereof to agricultural commodities that American agricultural interests want covered;
2. Changes the statements in Article 46 from statements of opinion to statements of uncontroverted fact;

3. Elimination conservation of natural resources from the objectives stated in Article 47;

4. Clarifies the other Articles to eliminate ambiguities—particularly in respect of the recitals in Articles 51 and 52:

5. Recites more definitely what is meant by "most favorable possible consideration" in Article 58, and

6. Provide for representation of consumer countries in both negotiation and actual application of commmodity agreements.

CHAPTER VIII. ORGANIZATION

Article 61.

(Paragraph 1)

This might involve duplication with the ILO or other international bodies. It would seem that a statement should be added that—

"Through the Economic and Social Council arrangements should be made to avoid unnecessary duplication of the compilation, analytical, and publication activities of other international bodies."

Article 61

(Paragraph 3 (c))

The recommendation that the ITO as such shall engage in "initiating proposals for new commodity arrangements" should be eliminated. Even if ICA's were economically desirable, it would seem that proposals for their establishment should be by and between prospective participants, instead of from some central agency. Retention of this provision would certainly give force to the idea that the Charter and Redraft would establish a central world economic planning body. The concept of a super-government world economic planning body is economically unsound, and any language which would even inferentially permit it should be removed.

Article 61

(Paragraph 3 (d))

The same objection applies. If carried to its logical conclusion, this would mean that the central body of the ITO would make suggestions to all governments as to their internal economic policies. Even though these were just "suggestions", still the impression of "coercive" suggestions might exist, especially among the smaller nations. If the proposal is kept, is should be reworded to make clear that even in the field of "suggestions" it applies only to policies and procedures in the field of international economic action which would implement the general and specific purposes of the ITO.

Article 61

(Paragraph 4)

There should be added here a provision that "members in the ITO agree that disputes which cannot be otherwise settled shall be referred to the International Court of Justice for decision." (cf. Article 86, Paragraph 3, which provides for reference of disputes to the International Court of Justice. Apparently there should be a cross reference between these).

Article 66

(Paragraph 4)

The U. S. should pay its fair share of the cost of the Organization, but should no longer be expected to subsidize international organizations.

Article 72

Even though it is provided that the Conference (the "General Assembly" of the ITO) may establish "other commissions", it is proposed that in addition to the specific listing of Commissions on Commercial Policy, Business Practices, and Commodities, there should, because of its particular importance, (as evidenced by the insertion of Chapter IV in its entirety) be specific provision for a "Commission on the Protection of Foreign Investments".

Article 77

This Article deals with the proposed "Commodity Commission" and in the Redraft is the same as in the Charter. It does not take into account the NAM's recommendation that the "Commodity Commission" should not be empowered to directly or indirectly initiate proposals for international commodity agreements of a restrictive character.

Nor does the "Redraft" state, (as we previously proposed) that the Commission "should be instructed to make recommendations for the termination of such agreements as may now or subsequently exist, and to regulate the operation of such (Intergovernmental Commodity) agreements until it is possible to abolish them."

Article 81

This refers directly to cooperation with the UN, but makes no reference to the Economic and Social Council. It would seem that all international economic activities should be coordinated with or into the Economic and Social Council. This, as we understand it, was the intent when the Charter of the United Nations was drafted at San Francisco. The Economic and Social Council should therefore be specifically mentioned as the coordinating agency.

EXHIBIT VI–C

[Pamphlet]

National Foreign Trade Council, Inc.

COMMENTS ON THE REVISED CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION IN TERMS OF FOREIGN ECONOMIC POLICY

(Presented at Public Hearings before an Interdepartmental Committee, New York, February 27th, 1947)

FOREWORD

The following comments and recommendations with respect to this Country's participation in the projected International Trade Organization and the Charter, are the result of more than a year's study by a Special Committee appointed by the Board of Directors of the National Foreign Trade Council, Inc., consisting of Charles R. Carroll, Chairman, John Abbink (ex officio), E. A. Emerson, Austin T. Foster, John L. Gillis and Frank C. Page, assisted by John E. Lockwood and Perry T. Hitchens.

The document has the endorsement of the Board of Directors of the Council, but does not, of course, necessarily reflect the views of any individual members of the Council.

JOHN ABBINK,
Chairman.

EUGENE P. THOMAS,
President.

FEBRUARY 27TH, 1947.

CONTENTS

	Page
Foreword	999
Introduction	999
Foreign Economic Policy	1000
Antecedents of the Charter	1000
Our Traditional Diplomacy	1001
Multilateral Collaboration—United Nations	1002
Content of Charter—Omissions	1004
Diplomatic Status of Charter	1004
The Development of the Charter	1006
General Observations on the Revised Charter	1012
Summary	1013
The Revised Charter—Specific Comments	1013
Introduction	1013
Additional Criteria	1013
CHAPTER I	
Purposes	1014
Purposes of the Organization—Chapter I	1014
CHAPTER II	
Membership	1015
CHAPTER III	
The Revised Charter—Continued	
Employment	1016
Article 3. Relation of Employment to the Purposes of Organization	1018
Article 4. The Maintenance of Domestic Employment	1018
Article 5. The Development of Domestic Resources and Productivity	1019
Article 6. Fair Labor Standards	1019
Article 7. The Removal of Maladjustments in the Balance of Payments	1019
Article 8. Safeguards for Countries Subject to External Deflationary Pressure	1020
Article 9. Consultation and Exchange of Information on Matters Relating to Employment	1020

CONTENTS—Continued

CHAPTER IV	Page
The Revised Charter—Continued	
Economic Development	1020
Article 10. Importance of Economic Development	1022
Article 11. Plans for Economic Development	1023
Article 12. Means of Economic Development	1023
Article 13. Governmental Assistance to Economic Development	1024
CHAPTER V	
General Commercial Policy	1025
Section A. General Commercial Provisions	1026
Article 14. General Most-Favored-Nation Treatment	1026
Article 15. National Treatment on Internal Taxation and Regulation	1027
Article 16. Freedom of Transit	1027
Article 17. Anti-Dumping and Countervailing Duties	1027
Article 18. Tariff Valuation	1028
Article 19. Customs Formalities	1028
Article 20. Marks of Origin	1028
Article 21. Publication and Administration of Trade Regulations—Advance Notice of Restrictive Regulations	1028
Article 22. Information, Statistics and Trade Terminology	1029
Article 23. Boycotts	1029
Section B. Tariffs and Tariff Preferences	1029
Article 24. Reduction of Tariffs and Elimination of Preferences	1029
Section C. Quantitative Restrictions and Exchange Control	1030
Article 25. General Elimination of Quantitative Restrictions	1031
Article 26. Balance of Payment Restrictions	1032
Article 27. Non-Discriminatory Administration of Quantitative Restrictions	1033
Article 28. Exceptions from Rule of Nondiscrimination	1033
Article 29. Exchange Arrangements	1033
Section D. Subsidies	1034
Article 30. Subsidies	1034
Section E. State Trading	1035
Article 31. Nondiscriminatory Administration of State-Trading Enterprises	1035
Article 32. Expansion of Trade by State Monopolies of Individual Products	1035
Article 33. Expansion of Tade by Complete State Monopolies of Import Trade	1036
Section F. Emergency Provisions—Consultation	1036
Article 34. Emergency Action on Imports of Particular Products	1036
Article 35. Consultation—Nullification or Impairment	1036
Section G. Relations with Non-Members	1036
Article 36. Contractual Relations with Non-Members—Treatment of Trade of Non-Members	1036
Section H. General Exceptions	1037
Article 37. General Exceptions to Chapter V	1037
Section I. Territorial Application	1037
Article 38. Territorial Application of Chapter V—Customs Unions—Frontier Traffic	1037

CHAPTER VI	Page
The Revised Charter—Continued	
Restrictive Business Practices	1037
Article 39. Policy toward Restrictive Business Practices	1039
Article 40. Procedure with respect to Complaints and Conferences	1040
Article 41. Studies relating to Restrictive Business Practices	1040
Article 42. Obligations of Members	1041
Article 43. Supplementary Enforcement Arrangements	1041
Article 44. Continued Effectiveness of Domestic Measures against Restrictive Business Practices	1042
Article 45. Exceptions to Provisions of Chapter VI	1042
CHAPTER VII	
Intergovernmental Commodity Agreements	1042
Section A. General Considerations	1044
Article 46. General Statement on Difficulties Relating to Primary Commodities	1044
Article 47. Objectives of Inter Governmental Commodity Agreements	1044
Section B. Inter-Governmental Commodity Arrangements in General	1045
Article 48. Special Commodity Studies	1045
Article 49. Commyodit Conferences	1045
Article 50. Relations with Specialized Agencies	1045
Article 51. General Principles of Inter-Governmental Commodity Arrangements	1045
Section C. Inter-Governmental Commodity Agreements Involving the Regulation of Production, Trade or Prices	1045
Article 52. Circumstances Governing Use of Regulatory Agreements	1045
Article 53. Additional Principles Governing Regulatory Agreements	1046
Article 54. Administration of Regulator Agreements	1056
Article 55. Provision for Initial Terms, Review and Renewal of Regulatory Agreements	1046
Article 56. Settlement of Disputes	1047
Section D. Miscellaneous Provisions	1047
Article 57. Obligations of Members Regarding Existing and Proposed Commodity Arrangements	1047
Article 58. General Undertaking by Members	1047
Article 59. Exceptions to Provisions Relating to Inter-Governmental Commodity Arrangements	1047
Article 60. Definitions	1047
CHAPTER VIII	
Organization	1048
Section A. Functions and Structure of the Organization	1048
Article 61. Functions of the Organization	1048
Article 62. Structure of the Organization	1049
Section B. The Conference	1048
Article 66. Powers and Duties	1049
Section C. Interim Tariff Committee	1049
Article 67. Interim Tariff Committee	1049

CONTENTS—Continued

CHAPTER VIII—continued	Page
The Revised Charter—Continued	
Organization—Continued	
Section D. The Executive Board	1049
Section E. The Commissions	1050
Article 75. Functions of Commission on Commercial Policy	1050
Article 76. Functions of the Commission on Business Practices	1050
Article 77. Functions of Commodity Commission	1050
Section F. The Secretariat	1051
Section G. Miscellaneous Provisions	1051
Article 85. Amendments to Charter	1051
Article 86. Interpretation and settlement of Disputes	1051
Article 88. Entry into Force	1051
Article 89. Withdrawal and Termination	1052
Bibliography	1052
Appendix	1053
Background of the Proposed Charter	1053
Treaties of Amity and Commerce	1055
Treaties on Fiscal Matters	1056
Convention on Industrial Property	1056
Reciprocal Trade Agreements	1058
Background—Our Diplomacy	1059
Origins of the International Trade Organization	1060
Relationship to the United Nations and its Other Agencies	1060

CHAPTER VIII—continued	Page
Appendix—Continued	
Background of the Proposed Charter—Continued	
Economic Provisions of the Charter of the United Nations	1061
Organs of United Nations Concerned with International Economic Relations	1062
The Economic and Social Council	1063
Commissions of the Economic and Social Council	1064
Economic and Employment Commission	1064
Subcommissions of Economic and Employment Commission	1064
Temporary Subcommission on Economic Reconstruction of Devasted Areas	1065
Transport and Communications Commission	1065
Population Commission	1065
Fiscal Commission	1066
Statistical Commission	1066
The Secretariat	1067
The International Specialized Agency	1067
Proposed Creation of Specialized Agency for International Trade	1070
Background—The United Nations	1071

INTRODUCTION

To assume and develop any attitude with regard to the program of economic collaboration projected for this nation through the medium of the International Trade Organization, and formulated in its Charter, is obviously an assignment which must be approached humbly and seriously. The National Foreign Trade Council feels the responsibility of making a contribution to public understanding of this document which will be truly constructive. This being the controlling consideration, we trust the reader will be patient while we resort to a few generalities which we believe are needed to place the program and its organic agreement in proper perspective. Our more specific comments will be developed later, and in considerable detail.

FOREIGN ECONOMIC POLICY

The foreign policy of the United States is a subject on which much has been and is being said and written. It is natural to look for a central concept, and it is only fair to say that its development from the confusion of the war is slow. This much is clear, that this nation emerges with unquestioned power, and hence with the responsibilities of leadership. At this stage, at least, our government has clearly acknowledged these responsibilities, and has obtained widespread public support, on a nonpartisan basis, to a program of making its maximum contribution to peace and progress by sincere collaboration with other countries through the United Nations and its various organs and agencies.

In the field of economics, the dominant position of this country is even more marked than in the political field. The responsibilities which this position places upon this nation are quite as large and as definite as in the political sphere. It would be difficult to put the thought as clearly as did former Secretary of State James F. Byrnes in his Cleveland address of January 11th, 1947—

> "We cannot wholeheartedly abandon the policy of political isolation unless we abandon the policy of economic isolation. We are not likely to be successful in our efforts to cooperate to prevent war, unless we are willing to cooperate to maintain freedom and well-being in a world at peace."

It is greatly to the credit of our Department of State that the responsibility of leadership in the economic field was recognized and met, even before the close of hostilities. A group, working under Assistant Secretary William L. Clayton, was preparing and laying out suggested lines of action to be brought forward at the proper time. Soon after its organization, our representatives took the lead in giving direction to the activities of the Social and Economic Council of the United

Nations. Our Department of State, in fact, brought forward the proposal to establish the International Trade Organization as the mechanism by which commercial collaboration among the nations is to be realized, on a basis of substantially increased liberalization of trade. However, it is already clear that this international trade program, involving tariff concessions on our part, is being subjected to criticism which may develop into partisan controversy. Therefore, we believe the best way to meet the advocates of economic isolation is that the merits and defects of the program as a whole, and of the instrument on which it depends, be identified and analyzed with some attempt at objectivity.

Antecedents of the Charter

Early in our approach, it became clear that any such approach would be quite difficult, without a fairly comprehensive reference to the antecedents of the International Trade Organization program. Moreover, our specific comments and criticisms, not only on the contents of the Charter, but on the exclusions and omissions from it, may be better understood and evaluated, if our perspective is established in the mind of the reader. Due to the length of this background material, we have treated it as an appendix, and will merely summarize our deductions from it. Notwithstanding this arrangement, we do feel that those readers who are so inclined, will find it profitable to refer to the Appendix before proceeding with our discussion of the Charter itself.

This background has been developed under two main headings; first, United States diplomacy as affecting economic matters, with principal emphasis upon our prewar accomplishments, and, second, the general scheme of organization of the United Nations, and its organs, with specific reference to the International Trade Organization. The contrast is marked, in that before the war, much of our diplomatic activities, if productive, were implemented by arrangements bilateral in form, although in the case of the Hull agreements, the incorporation of the most-favored-nation concept produced generalized results, whereas in our postwar program, the emphasis is upon multilateral negotiation and agreement, of which the United Nations is the accepted pattern and symbol. A second point of difference is that whereas before the last War, the Hull reciprocal trade agreement was the only significant category of diplomatic engagement entrusted solely to the Executive Department, the variety of projects in which the Executive may now involve this country in concert with foreign nations, without specific prior reference to the Congress, or to the Senate for "advice and consent", seems to be much greater than heretofore. This comes about mainly by two methods, one the so-called "executive agreement" and second, through adherence to an international agency whose activities can obviously not be controlled by us, except within the limits of some organic instrument, or "charter". Both these trends have natural explanations, but these should not blind us to certain elements of danger which are present, and may be as yet unrecognized.

Our Traditional Diplomacy

As to the first point, there is no inevitable antagonism between treaties which are bilateral in form, and those which are multilateral. No conflict develops when the content of the two-party arrangement is, in fact, consistent with what would be written into a general convention to which many parties could adhere. This is evidenced by the proposal of our State Department to attempt the negotiation, on a multilateral basis, of tariff agreements which have heretofore been dealt with by bilateral agreements. The same is true of other areas of negotiation. A good tax treaty between two nations (as for example, ours with Sweden) is certainly no impediment to a general convention on fiscal matters; on the contrary, the very existence of a number of such treaties brings the possibility of a general agreement closer. In fact, there are relatively few general conventions which were not preceded by earlier treaties with a limited number of signatories, so that a substantial area of agreement could develop by easy stages. The International Convention for the Protection of Industrial Property (to which this nation has been an adherent since its inception) is possibly the most notable exception, and this development was to meet a wide-spread demand for the correction of recognized abuses.

Of all types of bilateral treaty affecting business interest, the oldest form is the traditional treaty of amity and commerce. Only a few of such treaties have been negotiated in the last few decades. Such treaties are usually very broad in scope, assuring liberal and non-discriminatory treatment in all matters of trade,

commerce and navigation, and particularly those rights upon which direct investment by foreign enterprises must rely to be reasonably secure. Their concepts are accepted, and their phraseology well understood, in diplomatic circles. Indeed, the "most-favored-nation" concept is one which, although generally attributed to the Hull program, will be found in its undiluted form in our traditional treaties of amity and commerce dating back to before our Civil War. It may be a surprise to note that, in several instances, these are the only explicit diplomatic commitments upon which our business enterprises have to rely in venturing into certain Latin American countries. These commitments are in fact, more definite and useful to the business man with permanent establishments or investments abroad, than the less explicit commitments and the general statements of principle contained in the Charter, as now drawn.

One is inclined to suggest that, if these commitments are correct in principle, their equivalent should be incorporated in the Charter. This points up one of the most salient differences between bilateral and multilateral treaties, and the processes of their negotiation. The greater the number of parties to be heard, and the greater the variety of their economies, the smaller will be the area of easy agreement, and the larger will be the range of reservation or compromise, or even of subjects excluded from discussion. We may point out that this generality is no longer a generality, but applies specifically to the proposed Charter and the meeting of the Preparatory Committee at London, last October and November. And it is not justifiable, in the face of the varying economic convictions represented at that meeting, to assume that the reservations and compromises in the document could well have been avoided by a more intransigent attitude on the part of our representatives, or that the interjection of certain problems not there discussed, would have been productive of agreement. The great differences in approach to the matters discussed are clear from the report of the proceedings.

Having in mind this essential difficulty and limitation upon multilateral negotiations and commitments, we regard it as of prime importance, irrespective of our contemplated participation in the International Trade Organization and our adherence to its Charter, that our foreign economic policy be implemented adequately by treaties of amity and commerce, by fiscal treaties, and by our faithful adherence to conventions for the protection of industrial and intellectual property, along traditional lines. The diplomatic activities required for this implementation are most important, and it is encouraging to note that they are not now being neglected; but much remains to be accomplished before it can be said that the essential rights and privileges of American nationals and enterprises have the explicit diplomatic protection which such treaties afford. There are a considerable number of foreign nations, especially those whose social and economic systems are most similar to our own, with which agreements of a most comprehensive kind could be negotiated and concluded fairly easily and fairly rapidly. These opportunities should be aggressively embraced.

To modify the old adage, it is not wise to put too many of our eggs in any one basket. The very fact that we are negotiating treaties with other like-minded nations on a bilateral basis might favorably influence the attitude of the less liberal participants in the general discussions. Moreover, we must face the possibility that in the final show-down, there may not be an acceptable balance between what we can promise and what we are promised. The Charter, even in its tentative form, has by no stretch of the imagination been interpreted to or accepted by the public here, or for that matter, in any other country where public opinion controls through truly representative processes. It is surely a possibility that a reaction against our participation in this particular international activity might develop, for reasons not now apparent, and possibly quite unrelated to its merits or demerits. In that event, unfortunate as we might regard it, it would be most comforting to the business community to have our diplomatic relations with our commercial intimates independently secure and stable.

MULTILATERAL COLLABORATION—UNITED NATIONS

But lest our attitude be misconstrued, we repeat that we do favor the creation of an International Trade Organization as a specialized agency of the United Nations, and do favor the participation of the United States in that Organization. On the whole, the Charter as its organic document, is entitled to approval and support. Later on, we have undertaken to show what we regard as its limitations and defects, some of which at least can and should be corrected prior to definitive adoption. But the very existence of such an Organization, with only moderate effectiveness, can be expected to exercise a powerful restraining

influence against a general resort by individual nations or groups to measures which we regard as highly dangerous to an expanding volume of international trade, and on the contrary, tending toward progressive deterioration in world economy.

The participation of this country in the United Nations is an accomplished fact. The implication from this is clear, that we had best, in our own interest, participate in the various organs and agencies to be established, or already operating, under it or with its sanction. In our discussion of the United Nations Organization, we have tried to develop the position of the International Trade Organization. It is not a committee or commission of the United Nations. It is, like the International Bank and the Fund, a "specialized agency." Its establishment and continuance depend upon the adherence of individual nations to some organic act, separate and apart from the Charter of the United Nations. That Charter provides for the establishment, within the United Nations Organization (among other) of the Economic and Social Council, and to this Council are assigned powers and responsibilities of the broadest possible character. The Economic and Social Council, on February 18, 1946, adopted a resolution sanctioning an International Conference on Trade and Employment, for which an eighteen-nation preparatory meeting was held in fact in London in October and November, 1946. The resolution was adopted at the instance of this Government, and in anticipation of it our Department of State prepared its Proposals and later the Suggested Charter for an International Trade Organization. The agenda suggested by the Council (which we assume reflected the predilections of our representatives who initiated the action) will stand careful reading, especially in the light of the change in the American political scene in the intervening two years. It is clear that while the Conference was to *discuss* various phases of both trade and employment, it was suggested that the "responsibilities" of the international trade organization to be set up, would *not* include "the achievement and maintenance of high and stable levels of employment and economic activity." It is reasonable to infer that this particular area was reserved for further consideration within the actual framework of the United Nations Organization. This is borne out by the establishment by the Council in October, 1946 of two subcommissions of its Economic and Employment Commission. These subcommissions are, one on "Employment and Economic Stability" and the other on "Economic Development".

It is likewise relevant to our discussion to note that the Economic and Social Council has established some *nine* commissions (as of October 1946) of which two are quite closely related by function to trade, namely the Transport and Communications Commission, and the Fiscal Commission.

In an organization as large and elaborate as the United Nations, some questions of responsibilities and even conflicts of competence, may be expected to arise, so it is necessary to regard the resolutions of its several organs as "terms of reference" in the first place. In the case of the specialized agencies, however, since they derive their powers directly from the signatory governments, it has been found necessary to provide special coordinating machinery to sort out their several activities and perogatives. As to these, some confusion has already developed, and more may arise. The required adjustments, as has already been shown, cannot always be made before the conflict arises, but they are being attended to with commendable dispatch and definiteness, as intended. Each specialized agency is expected and required, under Article 63 of the United Nations Charter, to enter into a formal understanding with the United Nations which will bring it "into relationship" with that organization. Organs of the United Nations are, of course, subject to direct internal control by definition of powers and functions.

Content of Charter—Omissions

Having this in mind, we may the more easily understand certain omissions from the Charter. It seems reasonable to exclude matters having definitely fiscal implications and hence regarded as falling within the competence of the Fiscal Commission, or the Bank and Fund, and those relating to trade service activities, these being left by the Council to its Commission on Transport and Communications. In view of the many and varied facets of international trade, as we in the United States understand it, it is inevitable that some of us will find occasion to question the omission of some matters we expect to be dealt with in

the Charter of the International Trade Organization. But before assuming that the omission is an error, one should make a check of possible assignments to other agencies or organs. On this ground alone, our somewhat extended discussion of the United Nations Organization in the Appendix may be of some value to the business man, in analysing the Charter. At best, our conclusions are not authoritative, and we believe that the United Nations itself should make more adequate provision for the dissemination of information regarding its varied activities as they develop.

More specifically, we believe that the coming public discussions regarding the Charter should be opened up by a frank reference to those matters which are omitted from discussion because they fall within the competence of some other international organ or agency, and that unit clearly identified. So far as organs of the United Nations itself are concerned, even those most closely concerned with trade and commerce will not probably possess sufficient powers or resources to permit their taking specific action, or going beyond their accepted function of discussion and advice to member nations. It is the specialized agencies, which do possess both powers and resources derived from more specific commitments, which may exert a more positive and direct influence upon international trade and commerce. That is potentially true of the International Bank and of the Fund, and of other existing agencies. It will be true of the International Trade Organization, once it is established, in a very large way.

We do not regard this as any cause for uneasiness. We believe that the leadership which this country has undertaken, should be maintained by active participation in the development and establishment of this agency for economic collaboration. As a matter of enlightened self interest, we believe that the scope of its activities should be sufficiently broad that it will be competent to deal with the bulk of the problems related to trade. We are sure most business men would prefer to have their interests and problems discussed by an agency concerned primarily with trade, and with its liberalization and expansion, than by some other agency or organ of the United Nations which might have an entirely different approach. Moreover, it is reasonable to expect that the leadership and influence of the United States in this agency, having been fairly accepted already, can be more easily maintained than in certain other activities.

There is at present no positive assurance that an International Trade Organization can or will be formed, or what precisely will be its powers and functions. We must assume that the eighteen countries represented at London are tentatively inclined to accept the document which we are discussing, or at least that their representatives will recommend its acceptance. If this document is so accepted, we must conclude that the Organization will have powers which, if courageously exercised, may have a most direct and positive influence upon international trade. We should be under no illusions that it will be merely a discussion group. The document and the program would be much less interesting were that the case.

On the other hand, since we do regard the Charter as a binding commitment, once it is adhered to, certain requirements must be met. This organic act, or constitution of the Organization, must include those matters which are within its competence, and it must exclude those which are not. And at this point, a distinction must be drawn between statements of general principle, and specific commitments in the form of directions or prohibitions. There are subjects naturally falling within the competence of the Trade Organization, on which there is little or no present prospect of agreement in principle. In general, these should be frankly omitted, and the record should be clear to that effect, so that our position will not be compromised and, if a more propitious situation arises later, a further attempt at agreement can be made. It is, of course, futile to attempt implementation by specific stipulations, in matters on which agreement in principle has not been reached. It seems equally futile to resort to inconclusive and ambiguous phrasing, with extensive reservations, in formulating principles, when the first attempt at implementation is certain to develop the unresolved differences. There are in the Charter, specific passages to which these comments will be shown to apply. We believe that the chances of public acceptance of the Charter will be substantially improved by the elimination of such matter, and further, that its retention in the Charter will be a prolific source of controversy in the agency's deliberations, which may seriously impair its over-all usefulness. We believe this error is avoidable, if the content of the Charter is consistently restricted in its early stages to those matters on which there is real and fairly general agreement. Later on, more common ground may be discovered.

Diplomatic Status of Charter

We are quite aware, in this connection, that the word "agreement" may be misunderstood. The Charter as it emerges from the London Conference, expresses merely a consensus of opinion reached by discussion, at a diplomatic level, between representatives of eighteen governments. Access to these representatives by business was limited to the International Chamber of Commerce. The agenda originated in large measure in government circles. It is only in the light of detailed comparison that we may judge to what extent, if any, the development of the Charter has been influenced by expressions of opinion in the business world, or more particularly the American business community. Apparently the program contemplated rather that negotiations with other nations would be carried forward to the point of having (as we indeed have) a document on which public discussion could be invited; but one which, if it proves acceptable at home, has at least tentative sanction abroad.

The public hearings on the London redraft of the Charter, presently scheduled for late February and early March, 1947, are really the opportunity for expressing its considered views, which the business community has been awaiting. It is felt that this will serve a most useful end, not merely in permitting public criticism, but providing an opportunity for interpreting the essential aims of the program and its fair implications, in terms of common practical interest. (It is only fair to state that this was attempted in September 1946 by the issuance by the Department of State of its own "Informal Commentary", but in view of the extensive changes made in the Charter, and the new matter interpolated at the London Conference, it is hardly adequate at this time.)

When we speak of "agreement", therefore, we must qualify it as tentative as concerns the ultimate attitude of prospective signatories abroad, since it is made quite clear that the representatives of foreign nations were not authorized to make definitive commitments. Neither were plenary powers given our own representatives, although our position with respect to the substance of the "Proposals" which were put forward as our national policy, must be affected by that consideration. We have, in fact, some indications of reluctance on the part of foreign countries to make our proposals to liberalize international trade too seriously, unless they see tangible evidence in the form of favorable treatment of their goods in our markets. Hence the agreement reached at London is tentative in two senses, as regards foreign nations.

Quite aside from this aspect, there remains the question whether the Charter is, in its present form, a sufficiently correct reflection of the attitude of this government to form a satisfactory basis of definitive agreement. Since this is a representative democratic government, the question is simply whether public acceptance of it is assured, or can by intelligent criticism and interpretation, be developed. In this process, we believe the business community, and specifically the foreign trader, being the most intimately affected, are possibly the best qualified and most useful segment of the public whose opinion is asked.

It is desirable that the criticism and interpretation be as objective as possible, and in our specific comments we shall keep this in mind. But there are two biases which should be stated without apology or compromise. They are related one to the other.

The foreign trade community is a firm believer in a sound and expansive foreign trade, based upon the mutual exchange of goods and services, and is not a believer in the desirability, or even the possibility, of commercial isolation for the United States. Our business men in general also entertain a firm conviction that a system of free competitive private enterprise substantially unaffected by government controls or competition, is historically responsible for this country's high standard of living, and essential to its continuance in the future. While we frankly realize that other nations subscribe to other convictions and adjust their economies to other concepts, we hold that the same degree of tolerance we accord to them should be accorded us. In matters involving basic convictions, we feel that mutual tolerance, if sincere, is more constructive than compromise which is not sincere. It is probable that these biases will be evident from time to time in our discussion. With these exceptions we shall strive to provide an objective and informative criticism of the program of collaboration through the International Trade Organization and of its projected Charter.

The Development of the Charter

Before proceeding to our discussion of the Charter as we now have it, it seems in order to trace in or own terms, the development of the program and the docu-

ment which formulates it. This process may conveniently be related to three editions of the organic document:

First, the "Proposals for Expansion of World Trade and Employment" released as of November 1st, 1945 by the Department of State, as Publication 2411;

Second, the "Suggested Charter for an International Trade Organization of the United Nations" released in September, 1946 as Publication 2598; and

Third, Preliminary Copy of redraft of a Charter for an International Trade Organization, reproduced by the National Foreign Trade Council, Inc. from material supplied by the Department of State.

This last is referred to as merely a working paper. The official text of the Charter as revised will be found as the Appendix to the "Report of the First Session of the Preparatory Committee of the United Nations Conference on Trade and Employment" London, October, 1946, U. N. Document E/PC/T/33. This official report is only available in small quantities as yet, but it is very illuminating because it includes a summary of the discussions which took place in London, and resulted in the amendments and insertions of new matter which are most significant.

It is not our purpose to indulge in a detailed comparative study of these three documents: rather when we come to our criticism of the Revised Charter, we will refer in passing to such differences as seem to be relevant to the context. But it is interesting to refer to these antecedents of the Charter as we now have it, in terms of diplomatic and political developments at the time of their release to the public.

Of course, the idea of international economic collaboration is not new. But the realization of any such idea on a world-wide scale in time of peace, seemed quite beyond the desire or capacity of most governments: to the extent it was realized by private enterprise, even with government sanction, the forms which such activities took, and their practical effects, were seldom in the direction of liberalization or expansion of trade. During the recent war, however, the adoption by the principal belligerent governments of "economic warfare" demonstrated the possibilities of collaboration, and resulted in the development of techniques for its successful implementation. When the winning of the fighting war first became fairly assured, it was natural to think that this experience might be availed of in planning for the coming peace and its exigent problems of reconstruction and expansion of trade and employment. This idea found its expression, in fact, in Paragraphs 4 and 5 of the Atlantic Charter of August 12, 1941, when our military fortunes were at a low ebb. Later, when this nation embarked upon the tremendous program of Lend-Lease, reference was again made to the expectation of post-war economic relations in much the same terms, as will be seen by reference to Article VII of the Master Agreement of February 23rd, 1942. These passages are quoted in the appendix. They are the substantive origins of the Charter; though it is not clear that at that time the actual establishment of an international agency was regarded as the means to be selected for the collaboration planned. In the Moscow Declaration of October 30th, 1943, we do find explicit reference to the "international organization" which was planned for collaboration in the political field, and this concept was interpreted to apply to the economic collaboration of nations, in the report of the Yalta Conference of February, 1945, which called the San Francisco Conference for April 25th, 1945. The Charter of the United Nations was signed by this government on July 26th, 1945, and approved by the Senate almost unanimously two days later. Hostilities in Europe had ended May 8th.

The deposit of formal ratifications brought the United Nations into being officially on October 24th, 1945, although its first constitutive assembly was not to meet for some months, namely in January, 1946. It is to the everlasting credit of those to whom the economic phase of this program was entrusted, that they had ready, and released within a week after the United Nations was in being, their "Proposals for Expansion of World Trade and Employment". The initiative thus taken has certainly been of great advantage in many ways. First, it made possible public review and analysis of their substantive content both here and abroad, in advance of definitive formulation on a multilateral basis. It afforded an opportunity to identify those matters on which controversy might develop, but permitted the elimination of controversy based merely upon lack of understanding of what was intended to be accomplished, or what was assumed as premises. In addition, it gave some assurance to the business world that their problems would be taken into consideration at a relatively early date in the development of the admittedly ambitious plans of the United Nations.

This last assurance was borne out in some degree, when the first General Assembly met early in 1946, and promptly constituted the Economic and Social Council as its organ in economic matters, corresponding in power to the Security Council in the political sphere. This Council, on February 18, 1946, adopted a resolution calling an International Conference on Trade and Employment, to be held in the latter part of that year, and included in its terms of reference the establishment of an international trade organization. This action was directly the result of the initiative taken by the Department of State some months previous, and in large measure followed the agenda outlined in the "Proposals". A significant exception is that no reference is made to the item of "access, on equal terms, to the trade and to the raw materials of the world", which had been included in the Proposals.

Following their release to the public, the Proposals did receive a certain limited attention and study, and several institutions and trade organizations published their comments on several of its suggestions. The idea of a trade organization as an adjunct to the United Nations did not in fact attract much controversial attention, and for that reason it may have suffered in competition with other international questions, notably the plans for monetary stabilization through the International Bank and Fund. In the Congress, the only references we find to this program are in several reports of the Special Committee on Post-War Economic Policy and Planning (the Colmer Committee) of the House, which despite their overall excellence have themselves not attracted very general attention. Reference to these various studies will be found in the bibliography at the end of our pamphlet.

The International Conference on Trade and Employment was set for October 15th at London. Shortly prior to the departure of our representatives for this meeting, the Department of State released its "Suggested Charter". This document was in large measure an elaboration of the Proposals, and did not give evidence of having been influenced by such public discussion as had then taken place. Like the resolution of the Economic and Social Council, it omitted reference to the "equal access" concept. It comprises forty-seven printed pages of which twenty-four are devoted to the incidents of physical trade, and thirteen to organization: the balance is taken up with chapters on employment, restrictive business practices and intergovernmental commodity arrangements. Originating, as they did, within Government circles, it was only natural that the content of the Proposals, and in turn the Charter, should have reflected largely those phases of international trade with which the authors were most familiar, or as to which material and precedents were most easily accessible within government. To this natural impulse was added the logical inclination to direct the initial discussions to those areas in which a measure of agreement with foreign nations had either already been established, or could be reasonably anticipated, and to exclude other subjects on which controversy was expected. Since at this time, the adherence of all members of the United Nations was regarded as desirable and possible, certain concessions by way of exclusion seemed appropriate. Even the matter actually included in the Suggested Charter is colored to a degree by this motive. And both motives operated to place the principal emphasis upon physical trade, and to formulate the approach along the lines already familiar to the American public as essentially that of the Hull program of reciprocal trade agreements, but this time in a multilateral form. The interlection of entire chapters on "full employment", cartels, and commodity agreements can be understood from the origins of the Charter in official quarters, and a possibly higher estimate of their importance than would exist in the lay mind, but it can hardly be said that they fully meet the criterion of being noncontroversial, either domestically or in international politics.

The origin of the concepts on which the Suggested Charter is based, in our wartime joint effort, gave us the benefit of a running start, but this is in some degree offset by the direction in which we were pointed. In time of war, a nation's own resources are marshalled and used, and its enemies' resources destroyed or sterilized, with little regard to private interests, or quite often in open hostility to them. The actual collaboration between the belligerents was conducted by governments and their agencies, utilizing governmental powers and resources almost exclusively. Private trade, in those spheres not absorbed in the war effort, was subjected to such extensive controls and restrictions as to shrink it to an unrepresentative fixed pattern and volume. Wartime economic policies and practices were frankly unrelated to normal peacetime concepts of trade, and criteria of efficiency or productiveness were subordinated to military exigencies. Our material and financial aid to our co-belligerents was on a scale

unprecedented in any previous period. Even after the close of hostilities, our government and people were quite properly impelled to contribute to the relief of devastated regions and economies, in considerable amounts. We have no disposition to disparage such motives, be they military, political or charitable. Nor do we regard the activities into which they may have been translated as necessarily unconstructive, provided they are reasonably related to our own resources, and to the needs and merits of the beneficiaries. But they are not the stuff of which valid proposals for permanent economic collaboration can be made. The main postulate of international trade is a mutually profitable exchange of goods and services. This in turn presupposes payment or settlement in one form or another. Each nation must sincerely work to attain a balance of its own exchanges and payments within a reasonable time. Debtor nations must return to the homely practice of living within their means, either by increasing their means, or the more painful reduction of their scale of life. Creditor nations should, in their interest, realize their credits by additional imports, or convert them into long-term loans or productive investments. The extension of unwarranted credit internationally, however complicated or remote the mechanisms by which it is done, is a benefit neither to the creditor nor to the debtor.

The relevancy of this is that in the fall of 1946, when our government representatives set out for London, much was expected of government, because it was fresh in everyone's mind how much government had accomplished in the war. In fact, much was expected of this government by other nations' governments, and in fact much was promised in various fields. In the months that have elapsed since last fall, we have more or less painfully come to the realization that the resources of government are not inexhaustible, that they are merely drawn from the aggregate resources of the governed, and that not only are these exhaustible, but that there exists some political limitation upon their availability in time of peace. It may be difficult for those who have personally participated in the enormous expenditures of resources and effort during the war, practically free from political restraint, to recognize the changes that have occurred, and their impact upon the matter of economic collaboration. This applies not only to our own representatives at the London Conference, but to those of other nations, at least those of nations in which the democratic processes still control.

The initiative which this nation had taken was by no means lost in the six weeks of the London meeting. While the resolution of the Economic and Social Council of February, 1946 defined the terms of reference, the Suggested Charter put forward by our delegation constituted the agenda in a large degree, and the basis of discussion as to those matters with which it dealt at all. The committees which were formed, were along the lines of the chapter division of the Suggested Charter, namely, Employment and Economic Activity, General Commercial Policy, Restrictive Business Practices, Intergovernmental Commodity Arrangements, and Administration and Organization. However, in the course of the committee discussions, and particularly in that on Employment and Economic Activity, it was only natural that the other delegations should quickly develop the discussion of matters which they felt had been ignored or inadequately dealt with. Thus, we have in the Revised Charter a substantially expanded chapter on Employment, compared with the American draft, and an entirely new chapter entitled "Economic Development", and as to both these chapters as they now stand, it is only fair to state that they do not reflect the initiative, or necessarily the views of this country's delegation. A large portion of the detailed provisions of Chapter IV (now Chapter V) on General Commercial Provisions was referred to a drafting committee whose report is yet to come, but no essential differences of substance are anticipated in this connection. The Chapter on Restrictive Business Practices was substantially rewritten with, we feel, a more sophisticated and realistic result. Some changes were almost made in the succeeding chapter on Intergovernmental Commodity Arrangements, and several additional articles added, without really affecting its general tenor. As to the matter relating to the Organization, so many reservations and alternative provisions are included in the Report of the Preparatory Committee, that this section can hardly be regarded as having progressed to the same point of agreement, tentative though it is, to which the balance of the Charter has been brought.

In very general terms, therefore, we can take the Revised Charter, with the exceptions noted, as largely the contribution of our own delegation, affected here and there by the necessities of compromise in reaching some tentative agreement on a report. The eighteen nations represented at London did not include the Union of Socialist Soviet Republics, but they did include nations with economic

convictions and political concepts quite distinct from our own. It was, therefore, no mean accomplishment on the part of our delegation to prevail in their views to the extent to which they did. The progress which was made, and the bringing out of such a comprehensive document, was a pleasant surprise to most of the participants.

Even so, we must be quite aware that the agreement reached at London is merely in diplomatic language "ad referendum". By this is meant, that the Conference was an occasion on which views were exchanged without definite commitment on anyone's part, the result of the exchange to be referred back to each nation's government for review and possible change of position, should that be considered in its interest, with or without any change in the background of events. To be more specific, we have a tentative agreement on principles and mechanisms to be adopted, if the Organization is set up, but these are subject to change by negotiations at any time up to the actual signing of the instrument, and that event may prove to be dependent upon collateral considerations with which the Charter does not deal specifically. In this connection, it is clear that a substantial number of participants in the London Conference regard the "substantial reduction of tariffs" stipulated in Article 24 of the Charter to be negotiated among its members, not as the first order of business *after* the entry into force of this document, but as a prime inducement to their adherence to the Organization on any terms. That this viewpoint has been recognized is evident from the fact that the tariff negotiations have been scheduled for April 8th at Geneva, whereas it is not likely that the overall provisions of the Charter will be the subject of definitive commitments before next fall, at which time the plenary International Conference will be held. That is to say, the extent and nature of the tariff concessions which this nation is to make will probably have to be developed with some precision, before general adherence by foreign nations to the Charter can be relied upon.

The Department of State is preparing the ground for such tariff adjustments by holding the statutory hearings required by the law, at this time. It has also taken occasion to ask that the views of interested persons and associations on the Charter and the related program of international collaboration be presented formally and publicly, before an interdepartmental committee, which is now in session. That is, in part, the occasion for this study on behalf of the National Foreign Trade Council, Inc. There are naturally other implications in this procedure.

The ultimate test of any position taken, or action projected by our government in foreign affairs, under our political system, is not simply its acceptability to the diplomatic representatives of foreign governments or to those governments themselves, or to their peoples. The real test is rather whether it is intelligible, first, and then acceptable, to our people. Because of the length of the document and the varied matters dealt with in it, it would be idle to assume that the Charter brought back from London by our delegation is intelligible without interpretation to the public. This is of equal concern with the presentation of our own views. In attempting this interpretation, we have frankly drawn upon the contributions of other trade associations and of research organizations, insofar as they have been made publicly available. Our own views are an attempt to reflect those of the business community primarily, and in particular that section of it most concerned with foreign trade and commerce. We assume that these views constitute an important and a legitimate element in the appraisal of the Charter and the Organization by the American public as a whole. While we have admitted certain biases, we also assume that, irrespective of their origin, the comments and conclusions we have to offer will in the final analysis receive that consideration, and only that, to which they may be entitled upon their merits, judged from the larger national interest.

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General Observations on the Revised Charter

From what has been said in the previous sections of this study, it is obvious that the appraisal of the Revised Charter depends upon the criteria to be applied. The setting of criteria would be simpler if the document comprised only one type of material, or related to a single subject. It is made difficult by the fact that the Charter deals with several, but not all, phases of that complex structure which we call international trade. This difficulty is aggravated by including in the

document both procedural matter, and substantive matter, and as to the latter, both statements of principle, and explicit commitments. It is not easy in some cases to distinguish between these several types of expressions as they have not been completely segregated.

As to the procedural matter, it is not too hard to set up our criteria. We believe that the establishment of an International Trade Organization is desirable, and that this country should participate actively in it. Therefore, the question to be answered is simply whether the portions of the Charter dealing with its establishment and functioning are appropriate and workable. With certain exceptions which we will define later, we believe the Charter meets these criteria. As to whether there are vices in the set-up which will seriously impair its effectiveness, we can only say that no major defects in the mechanism are apparent. However, we do feel that, in common with any machine, its satisfactory functioning will depend upon the steady application of motive power—in this case, a sincere desire for the expansion of international trade—and the avoidance of speeds or work-loads beyond its rated capacity, especially during its run-in or shake-down period. By work-load we mean the size and variety of the problems which the Organization undertakes to deal with and for which it proposes to provide solutions which it must implement. The more ambitious and comprehensive its program, the greater must be the strength and precision of the machinery. While, therefore, we do regard the projected organization as adequate for the work tentatively laid out for it, we nevertheless feel that its chances of successful operation, at least in the early stages, would be improved by a more limited and precise definition of functions and objectives. This should be done by confining our attention to what are clearly critical needs in reconstruction and in the expansion of world trade in the near future.

Irrespective of its substantive content, we believe that the Charter could be much improved by rearrangement and segregation of its procedural and formal provisions. In our opinion, it is fairly obvious that Chapter II, "Membership", and Chapter VIII, "Organization", should be made one chapter, and it would seem appropriate to add to this, Chapter I entitled "Purposes". In this one chapter there should be specified a minimum number of procedures, identified by types, whether simply consultative and advisory, or fact-finding, or for the review of complaints, or arbitrative or even supervisory or executive, and the legal nature and significance of each procedure should be clearly defined. This is especially true of any procedures which may eventuate in the imposition of sanctions by or at the instance of the Organization. As the Charter is now arranged, these are found in articles scattered through the five substantive chapters, and neither the phraseology nor intent of the various provisions are coordinated. In the mere process of reduction to a few articles of general application, these procedures would automatically be placed in their proper categories, and their implications clarified. Moreover, such an arrangement would facilitate a real understanding of the essential character of the Organization and of its functions and powers in various fields. As now set up, it is necessary to refer to each substantive chapter to learn, for example, that as to employment or economic development, the functions of the Organization are largely or entirely consultative; as to restrictive business practices, they are quasi judicial, based upon complaint procedures, but lead merely to "recommendations" to members; as to commodity arrangements, they may in certain cases involve participation by the Organization through a Commodity Council, in the establishment and administration of commodity pools; with respect to general commercial policy, we find procedures in Chapter V which may lead to commercial sanctions, the enforcement of which is optional with any members, and the waiver of otherwise definite commitments by the agency. This last action is subject to "criteria" and "procedures" which are to be set by a two-thirds vote of the Conference under Article 66-2 of Chapter VIII, which is a provision of general application limited only by the phrase "in exceptional circumstances". Incidentally, this is the voting fraction required to amend the Charter in any respect, but non-assenting members may be expelled or withdraw. We believe these references are sufficient to indicate the desirability of assembling all these provisions in Chapter VIII and carefully coordinating them. The provision for granting dispensations "in exceptional circumstances" is worthy of critical examination, as it might well be abused, and nullify some of the inducements on which this nation and others rely in joining the Organization.

If these administrative provisions were so assembled in Chapter VIII, it would be easier to preserve the continuity of the substantive sections of the Charter, as these would be interrupted only by short references to the appro-

priate procedures. This device would also permit shortening the text somewhat.

We have suggested that in the case of each prescribed procedure, its legal significance be clearly defined. If the procedure is merely consultative, or results in a "recommendation" to members affected, their freedom of action is apparently not affected. But if the procedure is quasi-judicial, and the end result is a "finding" on which action is required, or a determination which releases one member from its obligation to another, any such finding or determination should be defined as a "justiciable issue" which may be submitted to the International Court of Justice—a right of review which is too narrowly limited as Article 86 now reads.

These are only the more important points on procedural and administrative matters. A somewhat more detailed discussion of the questions raised here, and quite a few others, will be found in the detailed analysis of the several articles, particularly under Chapter VIII. It may be in order to suggest, in any event, that it may be much easier to negotiate changes in procedural matters which do not affect the basic concepts of the Organization, but are rather rationalizations and refinements, than to obtain what we may consider desirable modifications of substantive portions of the Charter.

The matter of evaluating the substantive portions of the Charter is a much more difficult job, and one which we approach with some humility. It embraces not merely a review of and forming convictions upon the validity of the concepts expressed in the Charter, or the adequacy of treatment of the subject matter suggested by the Chapter and Article headings, wide as is their range. Since adherence to the Trade Organization is to be the central theme of this nation's foreign economic policy for some years, we must pass on the adequacy of the Charter's substantive content as a whole, with reference to the broad field of economic diplomacy. That is, one must ask whether the prime essentials as we know them have been included, and whether less essential or non-essential matters have been included which could have been more appropriately set down for merely consultative action, or excluded altogether.

At this point we should make clear our attitude with respect to the "terms of reference" contained in the resolution of February 18, 1946 of the Economic and Social Council. In the resolution, the matters listed were identified as suggestions, and therefore it is not believed that the inclusion or exclusion of a given subject was intended to be concluding or restrictive. Even if this latter were the intent, it would seem, inasmuch as the United States initiated the resolution, that it would be entirely appropriate for this country to move in the Council for an amendment of the resolution, should a different range of subjects develop as the discussions progress. To a certain extent, the expanded emphasis on Employment and Economic Development in the London redraft has already created such a situation. Accordingly, unless it appears that some adverse claim has been staked out by another agency or organ in the interval, we will assume for the purposes of this discussion that the organization action can be conformed, if necessary, to the end result of the negotiations, rather than that the range of discussion, either diplomatic or public, is circumscribed by the earlier Council action. In view of the broad terms used in the Resolution of last February, and the fact that the Charter is a separate multilateral convention subject merely to coordination by the United Nations, we do not believe that insuperable procedural obstacles to constructive changes should develop. We certainly must not regard the machinery we have created as more important than the ends for which it was created.

From these and other remarks, the reader will possibly be reminded that the approach of the business community is likely to differ in important respects from that of the authors of the Charter or the participants in the London Conference. It may minimize possible differences to identify the criteria which we propose to apply in the hope that they may commend themselves as honest, and realistic, even though our application of them may be controversial. Moreover, in dealing with any one subject, it is probable that these criteria cannot be applied singly, but must be taken as a composite, in which the weight allowed to each will have to be according to taste. And we can assume that in some cases, where we put a minus sign, others will put a plus and *vice versa*. But, agreement on criteria if it is possible, affords a common point of departure.

The criteria we proposed to adopt in determining what should be included in the functions of the Organization, and what should be excluded, can be rather shortly stated. We put first, *effectiveness*, that is an estimate of what, and how much can be dealt with and disposed of effectively. This is necessarily applied selectively. The second obvious criterion is *essentiality* or urgency, that is, how

real is the need for consultation or action to meet a problem presented in a given field, either absolutely or relatively. The third is that of *compatibility*—the degree to which a given matter can be made the subject of early multilateral agreement, or if not, whether differences may be resolved by adjustments directed by the agency along agreed lines. A fourth test is that of *competence*—the competence of the Trade Organization as an international body, as compared with other international agencies, or with the governments of sovereign states. These criteria are, we believe, sufficient for our purposes.

At this stage of our discussion, we shall only summarize our application of these yardsticks and state our conclusions, first with respect to the present range of the Revised Charter, and following that, in reference to matters which may be regarded as important omissions. We do not attempt, in this connection, any thoroughgoing appraisal of the validity of the statements of principle, or measures of implementation, which make up the substantive chapters of the Charter—although some inferences on those points may be necessary from our application of the criteria, particularly those of compatibility, and competence. A more expansive treatment of these thoughts will be found under the separate headings. Our present references will simply be to chapters as a whole, and to subjects of comparable breadth. Those which are included in the Charter are taken up in the order in which they now appear in the London revision.

The chapter on Employment (Chapter III) does not, in our appraisal, satisfy the criteria of effectiveness, compatibility or competence, and so far as the majority of countries are concerned, the "problem" is not immediately urgent. It is not at all clear what contribution the International Trade Organization can make *directly* to the expansion or stabilization of employment, and the attempt at London to develop a consensus on this point seems to have largely failed. This subject is specifically omitted from those fields in which the Organization was to have "responsibility" in terms of the Resolution of the Economic and Social Council. The National Foreign Trade Council feels that the inclusion of this Chapter (at least in its present form) is undesirable, and withholds its approval.

The subject of Economic Development, on the other hand, meets all our criteria in a notable degree, although it is, like the preceding, omitted from the fields of responsibility suggested by the Economic and Social Council. The Organization can, we feel, deal effectively with this subject. A fairly rapid expansion of economic development is not merely an essential, but an urgent prerequisite, to higher living standards in many areas, and hence to an expansion of world trade. And certainly, the Organization can be provided with a degree of competence in this field. We must frankly concede that the criterion of compatibility does not show as high as the others, but on grounds developed later, we do hold this test shows positive. The National Foreign Trade Council has therefore, given its general approval to this Chapter, with the reservation that no commitment to provide "technical assistance" in industrial expansion through the Trade Organization should be undertaken.

As to General Commercial Policy, there seems to be no question of this matter meeting all our criteria. Opinions may well differ as to the degree of essentiality of the various components of the Chapter, but by and large, the alleviation or removal of political obstacles to an expanded physical trade should be the first order of business. The Organization gives promise of effective handling of this subject, and a substantial degree of over-all agreement has been developed. Certainly no other medium exists for multilateral implementation of such agreements and commitments as may finally be reached. The National Foreign Trade Council endorses this Chapter, except that on grounds of insufficient competence, it is not appropriate that the Organization assume any responsibilities for the operation of State monopolies. (Articles 32-33.)

The subject of Restrictive Business Practices is not, in the opinion of the Council, one which is of comparable importance with other portions of the Charter, or one on which any general agreement or conviction exists. It does not seem probable that the competence or effectiveness of the International Trade Organization in this area will be of the same order as is other areas of activity. On this ground (irrespective of the error or validity of the concepts developed) the National Foreign Trade Council recommends its exclusion from the Charter.

The matter of Intergovernmental Commodity Agreements is a subject not only of greater significance than the preceding, but more clearly within the competence of the Organization. The National Foreign Trade Council has, accordingly, viewed its inclusion as proper. This does not imply any endorsement of resort

to such arrangements, but rather of the principle of controlling them through the international agency.

In addition to the areas of activity with which the Charter does deal, there are certainly equally important subjects which have been excluded, or dealt with only by implication. They are nevertheless essential phases of our world economy, and necessarily pose problems for our economic foreign policy.

Possibly the most obvious omission is the subject of direct investment, and its related problems. Since much physical trade is carried on between units of affiliated enterprises, this subject is intimately tied in with the concepts dealt with under "General Commercial Policy." We believe the Charter would be immensely improved by the inclusion, either separately or as an expansion of Chapter IV on Economic Development, of multilateral commitments which would set up adequate safeguards against destructive or discriminatory political action, on which investors might rely. The obstacles and hazards incident to the projection of capital and industrial techniques in undeveloped areas are considerable, and to the extent that they are of political origin, it is felt that they present an important and urgent problem, and one on which the Organization might make a substantial contribution towards a solution. The possibilities of more adequate treatment of this subject should be actively explored.

There is also the matter of development of material resources, based upon the concept of facilitating:

"access, on equal terms, to the trade and to the raw materials of the world."

As pointed out above, this objective appeared in the earlier "Proposals" but was eliminated from the Suggested Charter after the meeting of the Economic and Social Council. The reasons for its omission have not been publicly given. While it is recognized that some countries may take the position that they will not limit their complete freedom in this regard, it should be possible to develop such commitments as would prevent discriminatory practices with regard to such resources as are made accessible to development.

Not only business enterprises as such, but many individual contributors to the sum of human knowledge, are interested in the protection of intellectual and artistic property. The Charter does not deal with this important subject, except by rather obscure implication in Chapter IV, and negatively in Chapter VI. There is further, the assumption (unacceptable to us) that it will be largely the function of the several governments, or of the Trade Organization to provide the "advanced technology" prerequisite to progressive economic development. We believe that the inevitable and natural diffusion of industrial techniques will be sounder and more rapid, if developed with a proper regard for the proprietary rights now almost universally recognized under existing multilateral conventions. This subject does not present immediate or urgent problems. We recommend therefore simply the inclusion of definite recognization of these obligations, preferably under Chapter IV, Economic Development.

There are in addition to these, several areas which are intimately related to trade, but which, under the United Nations scheme of organization, have been referred to other agencies, or organs. Monetary stabilization and long-term financing are to be dealt with by the International Fund and Bank. Transportation by sea and by air are assigned to a shipping organization (yet to be formed) and to P. I. C. A. O. respectively. The adjustments to be made between the Trade Organization and the other agencies will be the problem of the Economic and Social Council, acting through its Coordination Committee. It is conceivable also that matters having to do with capital movements will be regarded as in the domain of the Fiscal Commission, and hence the subject of direct investments may be avoided, for the present, by the Trade Organization. It should not, however, remain a no-man's land. Nor should any of the subjects we have mentioned above as omissions from the Charter of the International Trade Organization.

Summary

To recapitulate, the position of the National Foreign Trade Council is broadly stated as follows:

I. The general objectives of the International Trade Organization are endorsed, and our participation in it is heartily favored.

II. The adherence of this country to the Proposed Charter is recommended, with these reservations:

(a) Chapters III, Employment and VI, Restrictive Business practices, should be either deleted entirely, or so revised as to reduce the

functions of the Organization in these fields to those which are purely consultative or advisory.

(b) Adequate stipulations should be inserted in the Charter (conceivably in Chapter IV, Economic Development) providing explicit protection against political action by member governments or their agencies, of proprietary interests, tangible or intangible, with specific reference to existing or prospective direct investments of American enterprises, and the exploitation of industrial techniques of American origin.

III. This country's participation in the Trade Organization by no means obviates the urgent necessity of aggressive and consistent implementation of the rights of American nationals and enterprises in the fields usually covered by treaties of friendship and commerce and fiscal treaties on a bilateral basis, and by conventions on industrial and intellectual property.

IV. Believing that our foreign economic policy should be realistically integrated, our present bargaining advantages, including specifically tariff concessions, should not be applied solely to securing adherence by foreign nations to the Charter, but should be used as well to secure satisfying commitments of the types referred to in the preceding point from foreign nations which will benefit from our proposed concessions, concurrent with our adherence to the Charter.

* * *

FEBRUARY 27, 1947.

THE REVISED CHARTER—SPECIFIC COMMENTS

INTRODUCTION

ADDITIONAL CRITERIA

We have summarized above our general appraisal of the Revised Charter in terms of this nation's foreign economic policy, and primarily in terms of inclusion or exclusion of certain subject matter. In taking up the actual content of the Revised Charter, it will be necessary to comment upon the actual treatment of the matters included, in terms of acceptability to the business community and to the public. Thus, in addition to the criteria of effectiveness, essentiality, compatibility and competence, which we shall again apply as we go to each Chapter, we will require additional criteria applicable to the text we have before us.

Naturally, the first criterion is *validity*. And by this, we frankly mean validity in terms of the economic concepts and convictions which we hold, rather than in terms of experimental or ideological devices which do not have the sanction of experience, or at least of successful experience. Since most of the material we are to deal with is primarily economic, its validity is to be judged (as best we can judge it) on the basis of what contribution it will make to the expansion of world trade, or on the other hand, what impediments or restrictions it may set up. Thus we mean validity in relation to viable economics primarily, and secondarily, in terms of social factors which are dependent upon viable economics.

We do not propose to make a separate criterion of adequacy of treatment. If a subject is dealt with from too narrow an approach, it is unlikely that the conclusion will be satisfying. But if the result is acceptable, we need not be concerned necessarily with the fact that every related factor has not been explicitly considered.

Our second criterion is *clarity*. While we have referred in passing to the necessity of distinguishing between statements of principle and specific commitments, we believe this criterion should be applied to both. It may be expected that, before the document becomes a definite agreement, all parties will be interested in having the commitments on which they rely, adequately set out in so many words, and without too extensive reservations or exceptions. Unfortunately the same motive does not apply to those whose commitments are sought, and compromise may be sought in lack of precision. The result is that the purported commitments may be expanded or contracted at the whim of one party or the other, thus inevitably inviting controversy. As to statements of principle, the temptation to avoid categoric statement is even greater. But statements of principle, to be useful must serve as the premises from which the specific commitments are developed, and according to which they are interpreted and if

need be, enforced. So we require that both principles and commitments (and their qualifications) be so clearly stated as to assure from the inception a common understanding on the part of all, so clear, indeed, as to suggest to the public what that understanding is.

CHAPTER I. PURPOSES

The matter constituting Chapter I of the Suggested Charter is not included in the Revised Charter as reported by the Preparatory Committee. The Chapter and Article number are reserved, with the note

> "To be considered and drafted at a later stage."

The Committee considered that

> "any discussion on this subject should be postponed until the structure of the Organization can be seen as a whole."

We believe this is a constructive and realistic view to have taken at the London Conference. It is desirable, in the light of the progress which has already been made, to point out that the "purposes" as outlined in the Suggested Charter, no longer parallel the content of the Revised Charter. But as we have no later edition of this Chapter, we shall address our comments to the text of the former, as it occurs in the Reprint.

From the treatment of this Chapter by the London Conference, it is clear that the statement of purposes was regarded as a derivative in a sense, of the functions and "structure" of the Organization. While we consider this as a reversal of logic, it may in fact be easier to work from the particular to the general, than the opposite. But, in any event, there is no question of the close interrelation of the general statement of purposes with the organization and procedural matter, which is discussed along with it in Chapter VI of the London Report under the heading "Establishment of an International Trade Organization". (Pp. 22–26 inc.) We therefore repeat our suggestion that this material, when finally drafted, be assimilated with what are now Chapter II, Membership, and Chapter VIII, Organization, to form a single chapter which will be largely procedural, and which should contain *all* procedural stipulations.

Purposes of the Organization—Chapter I

The statement of purposes constituting Chapter I of the Suggested Charter is in the nature of a preamble, and hence, is in obviously general terms. It is correspondingly difficult to offer much precise criticism of this section, either as to content or form. Certain reservations to the proposed implementation of these purposes will be developed in discussion of the following chapters; but on the whole, the statement of purposes is entitled to approval and support.

The purposes may be divided into two elements, one merely procedural, dealing with the concept of the Organization functionally, and the other substantive, being a statement of general objectives. As to the procedural part of this Chapter, Items 1, "to promote the solution of problems" by consultation and collaboration, and 5, "to provide a centralized agency" for coordination, would seem to be largely the same, and could profitably be recast and merged into a single statement. Nothing in the statement, however, implies that the Organization is committed to a positive program of implementing by collective action any multilateral commitments given by the members. In this respect, these statements in the preamble are substantially weaker than certain other portions of the Charter, notably Chapter VIII, on Organization, and Chapter V on General Commercial Policy, particularly the tariff sanctions contemplated by Articles 24 and 25, and Chapter VI on Restrictive Business Practices, particularly Article 42. Although the reader might be led to assume from the preamble that the Organization is intended to function merely as a consultative body, that is not wholly borne out by careful analysis of more specific provisions in later articles of the Suggested Charter. It is still somewhat early to predict whether the Organization will in fact be purely consultative, but we believe that it is desirable to identify and, if possible, eliminate contradictions or incomplete statements of this character. Of course, it may be desirable that the Organization have power to implement certain principles by appropriate sanctions, but to the extent that such powers are granted, the principles must be clearly understood and accepted by all concerned, as valid and realistic, and provisions made for their interpretation and application. This point must necessarily be developed later by reference to specific subject matter.

The substantive portion of this Chapter comprises the other three items: 2, The avoidance of destructive measures, 3, The encouragement of economic develop-

ment of member countries, and 4, The promotion of action (national and international) toward an expanding world economy. This short paraphrase of the purposes hardly does justice to their studied wording. It is merely to illustrate the emphasis put upon action by the governments of member countries as the principal means of reaching the objectives set.

The objectives as stated are admirable, but we note one omission:

> "access, by all members, on equal terms to the * * * raw materials of the world."

It is possible that this concept, originally included in the Proposals, is not abandoned, but rather regarded as outside the competence of the Trade Organization. We believe this omission, whatever the explanation, is unfortunate and should be corrected. The enormous and intimate significance of this phase of international trade and investment to trade in general, makes it an integral part of any adequate program for the International Trade Organization.

Aside from the objectives themselves, the way in which they are to be attained are not very satisfyingly identified. If these ends are to be achieved largely or wholly by voluntary collaboration without definite commitments, we feel that many member nations will be seriously disappointed. It is our hope that substantial areas of agreement may be developed, and incorporated into binding engagements, and that the bargaining power and prestige of this Government should be frankly applied to this accomplishment. To permit the Organization to be relegated to the status of a discussion group, whose resolutions would have no real compulsion upon member nations, would be to miss a unique opportunity in world affairs.

At the other extreme, which we regard as even more dangerous, is the implication that the "expansion of production, exchange and consumption of goods" is primarily dependent upon "national or international action" in the sense of government activities as such. The reconciliation of the conflicting economic concepts of other nations with our own presents inherent difficulties to be sure. But a frank and complete reservation is necessary to the effect that, to secure the support of the American business community, any program adopted or suggested by our Government should assure appropriate spheres of activity for private enterprise secure from competitive activities by government. We do not feel that compromise on this point is desirable, or can be expected to offer any sufficient inducement for the adherence to the Charter and the Organization of nations committed to collectivist economies, in which the concepts of private property, and trade for profit, have no place.

CHAPTER II. MEMBERSHIP

The provisions concerning membership, in themselves, require only short comment. The primary requirement for eligibility is acceptance of the Charter. Attendants at the United Nations Conference on Trade and Employment (presumably that still to be held in 1947) are automatically eligible. Other countries must be passed on by the Conference of the Organization and by the Executive Board. Decisions of the Board being by majority vote, as are those of the Conference, this procedure would seem to be acceptable and natural.

Reference to Article 88 (Chapter VIII, Page 53) indicates that under certain circumstances, it is intended that if the Charter itself does not become operative by the deposit of 20 ratifications in due time, a more limited Agreement on Tariffs and Trade may nevertheless be set up by those nations which wish to adhere to that. This provision of the Charter is plainly derived from the project of a multilateral agreement along the lines of the Reciprocal Trade Agreements to which reference is made in the Appendix (Page 129).

Neither membership in the United Nations, nor participation in any of the other specialized agencies, is made an absolute prerequisite to eligibility for membership in the Trade Organization. However, Article 29 entitled Exchange arrangements stipulates that

> "members of the Organization shall also undertake membership of the International Monetary Fund"

but tentatively provides that a country unwilling to do so many satisfy this requirement by entering into

> "a special exchange agreement with the Organization"

and that any member of the Organization which ceases to be a member of the Fund, must do the same. Moreover, Article 26 regarding "Restrictions to Safe-

guard the Balance of Payments" provides for consultation with the Monetary Fund, which implies certain advantages in membership in both agencies. Article 28 may operate in somewhat the same direction. These articles are, of course, discussed in their regular order. (See pp. 73–77.)

Naturally, the significance of "membership" can only be understood by reference to the various advantages promised to members, and not otherwise available to a country, balanced against the responsibilities assumed by members, which they need not otherwise assume. Generally speaking, these obligations center about the liberalization of trade practices, and conclude members from resorting to measures of a restrictive nature, without sanction of the Organization. From the United States angle, since our principal concessions will be fairly immediate, and the corresponding inducements run into the future, it would be desirable to spell out unequivocally the rule that no country is released from its obligations except by termination of its membership in the Organization, as provided in the Charter.

There are in the Charter, several provisions to the effect that, if a member is found to have failed to comply with its obligations (as to tariff reductions, Article 24, elimination of quantitative restrictions, Article 25, and the more general Article 35), certain sanctions may be authorized, and the offending member may withdraw by giving sixty days' notice. Except for such cases, and in case of amendment of the Charter (Article 85), voluntary withdrawal is not provided for until after three years from the entry into effect of the Charter, and then only upon six months' notice. This results in an inconsistency, whereby a recalcitrant or irresponsible member is in a better position as to withdrawal than a member in good standing. To aggravate the situation, there is no provision whatsoever for expulsion, however flagrant a member's disregard of his obligations.

It would seem that all provisions regarding termination of membership, should be assembled in one place, and carefully correlated.

CHAPTER III. EMPLOYMENT

This Chapter of the Revised Charter consists of seven articles, numbered 3 to 9 inclusive. With the exception of Article 4, none of the provisions emanating from the London Conference correspond recognizably to matter or concepts of the Proposals or of the Suggested Charter. The first, Article 3, is intended as a statement of principles, and the other six articles are, at least in form, commitments as to action, inaction, or consultation "with a view to concerted action".

It is certainly a matter of general concern throughout the world that employment be at high levels as can be achieved by productive enterprise. Liberal policies in international trade are usually productive of expanded demands, and necessarily this is reflected in a general increase in employment. But the process is affected as well by factors such as price, physical availability, variety of goods, and in fact by the whole complex of human wants and purchasing capacities. These differ widely in different countries, and even in sections of the larger nations. Despite the efforts made by certain governments to regulate various phases of trade, their most notable successes seem to be in depriving people of things, rather than providing people with the things they want. It remains the function of private enterprise to study people's wants and preferences, and provide goods at a price, and at a place, at which buyers will take them. That is trade, and that is what provides employment. It is, moreover what tends to adjust differences in prices, wages and employment in separate political units.

We believe that it is not the function of government, so much as of private enterprise, to provide any substantial portion of "productive employment." We, therefore, do not accept the idea that our Government, alone or in concert with other governments, should assume any such responsibility. It may be argued that the net effect of Chapter III is not to impose such a responsibility upon any member government. If that be the intent, it could be more simply stated. Acareful study of the Chapter, and of that section of the London Report dealing with Employment, leaves one somewhat confused as to what is really intended.

A comparison of the content of this Chapter as it emerges from the London Conference, with its antecedents in the Proposals and the Suggested Charter, indicates that a very limited area of real agreement has been developed. The report of the discussions at London demonstrates, without too much reading between the lines, that efforts to proceed beyond generalities accentuated differences rather than resolved them. In lieu of reconciling the essential incon-

sistencies which already existed in the American Suggested Charter, more concepts were brought into the discussion, and as its area expanded, the possibility of agreement seems to have diminished. Thus we have a series of loosely related stipulations, each so qualified that one can neither rely upon them nor be sure that others will not do so. This, apparently, is not a mere matter of drafting, but results from a lack of essential agreement on principles and implementation as well.

If the Chapter as it now stands is taken as the measure of what can be agreed upon and what is to be undertaken by the Trade Organization in regard to "Employment", this Chapter satisfies neither the criterion of effectiveness nor that of compatibility, in any satisfying degree. Nor, in view of the attention which other organs and agencies of the United Nations are devoting to the subject, do we feel that the Trade Organization is preeminently competent to attempt to deal directly with the problems which are assumed to exist. If it succeeds in other fields, it will have made a valuable, possibly critical, contribution to expanded and stable productive employment.

There remains the criterion of essentiality. In 1945, an enormous and understandable concern was felt as to the capacity of many economies to reabsorb the millions of men then still under arms, into productive employment. That concern has fortunately proved largely unjustified—for the present, at least. If large-scale unemployment is a threat, it is no longer an immediate one—certainly not one of the proportions predicted in 1945. It was in April, 1945, at San Francisco, that the concept of "full employment" was written into the economic objectives of the United Nations as expressed in Article 55 of its Charter. Ten months later, on February 18th, 1946, the Economic and Social Council in its resolution calling for a Conference on Trade and Employment, suggested as a basis of discussion, among other things:

> "the achievement and maintenance of high and stable levels of employment and economic activity."

This was item (a) of Paragraph 3. It will be noted that the concept of "full employment" had by that time been diluted or rationalized to a substantial extent. This may in fact have been a reflection of what had been going on in our domestic political scene. Our Congress had labored with the problem too, through the months while millions of discharged service men found jobs. On February 20th, 1946, the "Employment Act of 1946" became law. The view that it was the function of government to provide or even assure "Full Employment," though earnestly advocated, was definitely rejected.

President Truman, in his statement on signing the Bill said:

> "Democratic government has the responsibility to use all its resources to create and maintain conditions under which free private enterprise can operate effectively—conditions under which there is an abundant opportunity for those who are able, willing and seeking to work.
>
> "It is not the government's duty to supplant the efforts of private enterprise to find markets, or of individuals to find jobs."

Thus we have a legislative declaration, accepted by the Chief Executive, rejecting the concept of "full employment" and substituting that of maximum opportunities for productive employment under a strictly free private enterprise economy.

This, we are convinced, is the measure most "appropriate" to our political and economic institutions, and it is quite compatible with the principal purposes of the Organization. It is consistent with liberal trade policies and practices, with the consumption here of large imports, and with large exports of our own production. But it does not require direct implementation by the Trade Organization, or any of the devices contemplated in Chapter III.

As to the validity of the principles stated in Chapter III, we find it extremely difficult to reach an opinion. There are several statements that are susceptible of more than one interpretation, depending upon where the emphasis is placed. What is really lacking is clarity and precision, in both principal statements and qualificaitons. But the plain implification from the repeated references to "action" or "measures" to be taken by "members", that governmental or political planning is the main reliance of the authors of the document, we definitely regard as unacceptable. The fact that the exact nature of those measures is not anywhere specified, is rather the cause for additional misgivings, since it suggests future improvisations. Even with the qualifications inserted, certain commitments are undertaken which it would be difficult to live up to without resort to artificial measures, involving governmental interference in normal trade or industrial activities.

While the Chapter is reconcilable with more conservative economic concepts inherent in private enterprise systems, the National Foreign Trade Council feels that Chapter III is as a whole undesirable, and withholds approval of its inclusion in the Charter.

Article 3. Relation of Employment to the Purposes of Organization

This article consists of two paragraphs, the first substantive and the second partly substantive and partly procedural.

As to the first paragraph, the central thoughts seem to be that (1) optimum conditions in each country are of interest to other countries, and essential to the success of the Organization, but (2) no "measures" for the maintenance of employment should be resorted to by any one nation, which will create difficulties for another, in its balance of payments. Both of these statements are so general as to possess a certain plausibility, but their implications require careful examination. They also involve essential contradictions which are by no means explained or resolved. And it is plain that the second clause is directed consciously or unconsciously, at the United States, since it is presently the largest "excess-export" economy, and bids fair to be the one whose currency will be scarcest when existing dollar credits are spent, and our current liberal financial aid is no longer a factor. While making the utmost allowance for the viewpoint of countries experiencing or anticipating difficulties in balancing their payments, it is quite unrealistic and fallacous to pretend that such conditions are or will be attributable to "measures" taken by this country. It would be equally unrealistic to ignore the possibility that ill-considered and extravagant extensions of credit or sudden reversals of policy by this nation, may aggravate these difficulties of other nations to the point of disaster. We must, however, adhere to the basic premise that economies short of foreign exchange must ultimately make their own adjustments, the most obvious being the elimination of foreign purchases. This is a basic premise of the Bretton Woods monetary mechanism, and to this idea the Charter itself makes substantial concessions. These are by way of exceptions to the stipulations against discriminations and quantitative restrictions on imports, found in Chapter V, notably Article 20 and Article 28.

The second paragraph concedes that the solution of problems of employment depends upon "domestic measures" but then proceeds to develop two other ideas, first that information and views should be exchanged regularly between members, and second, domestic measures should be supplemented by international action sponsored by the Economic and Social Council or other intergovernmental organizations, presumably the International Labor Office for one.

This paragraph reflects, one might say, a somewhat unwilling recognition of the fact referred to earlier, that the Economic and Social Council explicitly declined to assign to the Trade Organization responsibility for employment. It would seem that the Trade Organization should accept this dispensation with relief, rather than enter a field of activity already reserved for the International Labor Office by the Economic and Social Council. Even if the activities of the Trade Organization were confined to the exchange of information, this could probably be handled to better advantage by the labor agency which is already established and qualified for the job by years of experience and historic perspective.

Taking the article as a whole, it is not a very satisfying contribution to an admittedly difficult subject. In our opinion, its inclusion in the Charter serves no useful purpose.

Article 4. The Maintenance of Domestic Employment

This article contains but one relatively short paragraph. It is drafted as a commitment, obligating members to:

> "take action designed to achieve and maintain full *and productive* employment and *high and stable levels of effective demand* within their own jurisdiction."

but the commitment is broadly qualified by the reservation that the measures adopted shall be

> "appropriate to their political and economic institutions *and compatible with the other purposes of the Organization.*"

The words italicized above were added at London: otherwise this article is substantially the same as Article 4 of the Suggested Charter. The matter added by way of qualification is an attempt to rationalise a thoroughly unacceptable concept, but we feel that it has merely added a confusing inconsistency. This

inconsistency is not resolved by the report of the discussions, which merely paraphrase the article.

We have two objections to this article. If it means anything (and other countries may well contend that it means a great deal) then it is not a commitment which our representatives are in any way authorized to give. If it means nothing or little, because there are available to our government, in this field, no measures appropriate to our political and economic institutions (which we agree is the case), then we are engaging in an attempt to delude those who may place some reliance upon the commitment. In either case, the article is not up to the standard of sincere and constructive drafting which other portions of Charter easily meet. In our view, the article possesses neither validity nor clarity, and should be eliminated.

Article 5. The Development of Domestic Resources and Productivity

This article comprises a single paragraph, and is entirely new in the London redraft. It is a fairl ydefinite commitment by members "progressively to develop economic resources and to raise standards of productivity within their jurisdiction."

We agree wholeheartedly with the objective expressed in this article. It serves to correct in some degree, the omission in the Suggested Charter of any any reference to the objective set by the Atlantic Charter, of

"access on equal terms to the trade and *to the raw materials* of the world."

It may be observed that the development of resources implies access, but the original thought of "on equal terms" requires implementation by other stipulations of the Charter, and in this connection we must have in mind the provisions regarding State Trading (Articles 31 and 32), Subsidies (Article 30) and Intergovernmental Commodity Agreements (Chapter VII). However much we are attracted to the content of this article, we do not regard its association with the chapter on Employment as natural or fortunate. We believe it could to advantage be assimilated with Article 10 entitled "Importance of Economic Development" in the following chapter, which is in fact, somewhat repetitious of the article under review.

Article 6. Fair Labor Standards

This article, a very short and inconclusive one, is also new in the London redraft.

Reference to the report of discussions of this matter shows that misgivings were expressed as to the competence of the Trade Organizations as compared as compared with the International Labor Office. We believe that the Trade Organization should offer no pretense of dealing with this matter, since its implications in international trade are at most collateral to its social significance.

Article 7. The Removal of Maladjustments in the Balance of Payments

This article (also new in the London redraft) requires members having a "fundamental disequilibrium" in their balance of payments which involve other members in difficulties, to make "their full contribution to action designed to correct the maladjustment."

There is no occasion for ignoring the obvious fact that this obligation is one which will rest lightly on any nation other than the United States, and heavily upon us. We can only infer from experience what the phrase "full contribution" may mean, but from that experience we are entitled to regard it with suspicion. It is not apparently intended to include further financial contributions to the restoration of world economy, but it could be so interpreted. We are, however, enlightened somewhat by the suggestions on Page 5 of the Report, which are given as measures which the government concerned may adopt:

> "The stimulation of imports or the removal of special encouragement to exports, an appreciation of the country's exchange rate, an upward revision of its internal price and cost structure, an increase in foreign investment, etc."

In our scheme of things, these are not "measures" which government casually resorts to as devices in a planned economy, they are economic trends or developments arising from a complex of economic facts. We cannot accept the validity of such an approach to the correction of "disequilibrium". We may sincerely work for a healthy increase in useful imports rather than "stimulation." We may well agree that subsidies or intergovernmental loans which unduly encourage exports should be progressively restricted. And we believe that substantial foreign investment in areas of political and economic stability will justify

themselves. But all these things must stand or fall on their own merits, as an aggregate of profitable and sound transactions or policies, or the correction of unsound policies. They are not to be regarded as contributions to the "difficulties" in which deteriorating economies find themselves. It is precisely those countries which have little to send to our markets, and which buy beyond their means, and which are least attractive to investors, which will in all probability expect of us the "full contribution" referred to.

Again we must say, in the alternative, if this article means anything, it means too much; and if it means nothing, we should not offer it as an inducement which will prove an illusion and a disappointment.

Finally, whenever "balance of payments" comes into question, the competence of the Trade Organization would seem to be inferior to that of the International Monetary Fund.

Article 8. Safeguards for Countries Subject to External Deflationary Pressure.

This article simply relates to the exercise of its functions by the Organization and provides that it shall "have regard" to the need of members to protect themselves "against deflationary pressure in the event of a serious or abrupt decline in the effective demand of other countries," but this concept is limited to the distressed member taking "action within the provisions of the Charter." The article was inserted at London.

In view of the extensive and elaborate provisions which are contained elsewhere in the Charter to permit relief of any member who can make out a case of hardship, it does not seem particularly necessary to labor the point in this Chapter. On the other hand, the article, qualified as it is, is not more expansive than the other relief provisions, and has no greater implications. Like the preceding article, it deals primarily with "disequilibrium" which is a specialty of the International Monetary Fund, and within its competence rather than that of the Trade Organization.

This article does reflect an unfortunate obsession on the part of certain representatives that the depressions which occur in countries which are normally large consumers of particular commodities are devised or permitted from some motive of hostility to the foreign supplier. A study of the causes of cyclical depressions in a free capitalistic system is hardly within the range of these comments. But it probably would lead to a more realistic appraisal of the concept from which this article originates, to admit frankly that we have not yet discovered the way to avoid recessions, and still retain the elasticity which permits this country to be normally the world's best customer.

Article 9. Consultation and Exchange of Information on Matters Relating to Employment

This article comprises an undertaking to collaborate in the collection and exchange of information, and for consultation "with a view to concerted action on the part of governments and intergovernmental organizations in the field of employment policies."

Although largely new in phraseology, it is officially regarded as the equivalent of Articles 6 and 7 of the Suggested Charter.

This article is purely procedural, and hence its acceptability is dependent upon our attitude toward the Chapter as a whole, which is negative. It would seem that the Trade Organization should, in the interests of economy, avail itself to the extent needed, of facilities and activities of the other agencies giving their attention to this matter, and so avoid duplication of effort and expense. On this ground, we regard this Article as superfluous.

CHAPTER IV. ECONOMIC DEVELOPMENT

This entire chapter, comprising four articles, was inserted at London, and has no counterpart in either the Proposals or the Suggested Charter. As stated above, the National Foreign Trade Council approves the inclusion of this subject in the Charter, and the general approach taken, as evidenced by the text and the accompanying report.

The arrangement of the text, however, is somewhat confused. Of the four articles, three contain both substantive and procedural matter. The procedures contemplated depend in the first instance upon consultation between the members, but under Article 13 we find a provision for release of obligations undertaken under the Charter, which deserves careful attention.

The basic premise of this Chapter, as expressed in Article 10, is the benefits to be anticipated from "industrial and general economic development of all countries and in particular of those whose resources are as yet relatively undeveloped".

This is then restated in Article 11 as a commitment to promote such development and to cooperate through the Economic and Social Council and other intergovernmental agencies to that end.

The other two articles relate to means of economic development, the first (Article 12) being of general application, and the second (Article 13) more specifically referring to particular industries which need governmental assistance. These are discussed in some detail below, but generally must be analysed as commitments.

The subject of economic development is so broad that it is obviously difficult to reduce it to the proportions of definitive commitments. To be comprehensive, any postulates would have to be applicable to agriculture, extractive and manufacturing industries, and inferentially to utilities, transport and general service activities. It would appear that the unconscious emphasis of the Chapter is upon manufacturing, and upon industrialization of less advanced economies. The principal obstacle to general understanding on the subject seems to be the varied concepts of the functions and prerogatives of government and private enterprise respectively. The lack of a constructive approach to this phase of the problem leaves much of the otherwise helpful content of this Chapter hanging in the air. We believe this deficiency is responsible for the omission of specific reference to the development of natural resources. It would, however, be a simple matter to incorporate in this Chapter the substance of Article 5 of the preceding chapter, entitled "The Development of Domestic Resources and Productivity", which is discussed earlier. And obviously, any viable program of industrialization presupposes a background of utilities, transport, and basic industries.

It is clearly within the sovereign prerogatives of any nation to nationalize, or regulate, a greater or less proportion of its total economy. We do not propose that the International Trade Organization would trespass upon that prerogative, any more than we expect it to invade our free enterprise system. But if, as this Chapter infers, the acceleration of industrial expansion is a matter of prime interest to the Organization, it must be likewise concerned with some practical means by which this expansion can be accomplished. The Charter correctly identifies the prime requisites—capital, and technical and managerial skills. Some less developed countries will require both; others do possess large capital resources, but need technical help. More mature economies, disrupted by the war, need principally capital or credit. It has been assumed that much of the long-term capital requirements would be supplied by the International Bank or through intergovernmental loans—the validity of this assumption is increasingly doubtful. But it is our conviction that in general, the most reliable source of industrial techniques is private enterprise in more mature countries—with the notable exception of agriculture, a field in which public research has been eminently successful. And the principal source of both investment capital and techniques is certainly the United States, and our private enterprises.

But before either of these requirements will be made available in volume, some reliable assurances of freedom from political interference and governmental hostility must be forthcoming. These assurances need not cover all spheres of industrial activity to satisfy a prospective investor—but they should cover the field in which his enterprise proposes to operate. The assurances required are essentially two—first, that his proprietary rights will be respected and protected, and second, that he will not be subjected to competition by government or by government-subsidized activities. These assurances must be implemented diplomatically by a commitment from a responsible government.

We believe some such commitments can and should be provided for and obtained, and that the Trade Organization is a proper medium for this function. In line with the stipulation for "cooperation", the Charter might provide for the deposit by a member with its Secretariat, of a declaration of that member's attitude with respect to foreign investment. This would not be compulsory, nor be in any rigid form, but would at least specify by more or less accepted categories, the fields of commercial activity in which that government recognized and encouraged private enterprise, those fields in which municipal or national government was engaged or proposed to engage, and by inference, those fields as to which no decision having been reached, no assurances could be given. The degree to which foreign investment might be attracted to a given country would obviously be related directly to the extent and variety of activities in which such investment was invited or permitted.

The filing of such declarations should, we think, be voluntary, and they need not be concluding on the member making them, except as to investments actually made while they were in effect. They should, however be further implemented in two respects. If government enterprises should be set up and enter into com-

petition with an established private concern, the owner should have the option of requiring his venture to be taken over at a fair valuation. In this case, or in case of any expropriation, fair, prompt and effective compensation should be assured and the proceeds should be convertible into free currency.

Whether a regime such as this can be set up and operated within the Trade Organization, will we feel, largely determine whether it can and will make a practical contribution to recovery in war-damaged economies and to sound industrial development in newer areas. If, on the other hand, no such selective approach is developed, this portion of the Charter bids fair to have little positive practical effect. In this event, any substantial expansion of American investments abroad will have to depend for formal diplomatic protection upon bilateral treaties of the traditional form, to which we referred in our opening discussions.

In addition to the protection of the tangible property, there is the matter of recognition of proprietary rights, in such techniques as are commonly covered by patents, good-will associated with trade names and trade marks, and other intangibles. These "industrial property" rights are usually closely interrelated with the expansion of direct investments, which form a major part of this country's foreign investment picture. No recognition of this phase of the problem appears in the Chapter.

A further prerequisite to the flow of venture capital is the assurance of equitable treatment not alone with respect to the integrity of the principal of the investment, but with respect to disposing of the proceeds of profits, or returns on the investment, whether they be in the form of dividends, interest on loans, amortization, or even royalties. Unreasonable fiscal exactions in the form of taxes, or obstacles to conversion into foreign currencies, are obvious temptations to the host country, once the capital has been imported, and understandings should be reached that such measures will not be resorted to without at least an opportunity, for review at the international level. This phase of international relations will have to be integrated with the operations and policies of the International Fund and Bank, on a definitely realistic basis, as regards restricted exchange. As regards taxation, it can be dealt with by a series of bilateral treaties on taxation, or by a multilateral convention—but in any case, some general statement of principle in the Charter would seem to be quite appropriate. Two commitments are desirable, first that members will not resort to taxation which discriminates against foreign-owned enterprise, and second, that in times of exchange stringency, appropriate provision will be made for remittance of at least a reasonable return upon foreign capital, in any control regime adopted. Historically, there are a substantial number of foreign countries which have a fine record on these points, and as a practical matter, they are now finding it much easier to attract new capital than those countries which have not so scrupulously regarded these principles of fair play.

To sum up, we feel that this Chapter on Economic Development deals with a subject which is appropriate for inclusion in the Charter, and that its content is acceptable ,with the exception that it should contain no commitment for the providing of "technical assistance" by the Organization or by any member government, as that expression is usually understood,

It is felt, however, that the Chapter does not now reflect a very extensive area of agreement, and is definitely insufficient to constitute a basis for constructive dealing with the promotion of industrial development, without some method of reconciling differing views similar to that which we have proposed, which will encourage American direct investment abroad. We feel also that adequate provisions regarding the development of natural resources, the recognition of proprietary rights in intangibles, and adherence to reasonable and fair fiscal practices, are required to make the content of the Chapter reasonably adequate to the subject.

With these reservations, we approve the Chapter.

Article 10. Importance of Economic Development

We have already referred to this article as the premise of the Chapter. It merely states in quite general terms the assumption that "industrial and general economic development" is beneficial and, among other things contributes to the expansion of international trade and increased levels of real income.

One can hardly disagree with this, in the light of the fact that in most cases, the more highly developed economies are better customers for each other and the rest of the world. However, the essential validity and reality of the article would be improved, if the substantive portions of Articles 12 and 13 were moved over into this article, as they are really qualifications of the generalities stated here. That is, experiments in industrialisation do not raise levels of

real income unless they succeed, and they do not usually succeed unless the particular economy possesses, or can import, the capital and techniques which are requisite. It is clear from the discussions at London that these realities were appreciated, but they are not reflected in the purely affirmative suggestion of the attractiveness of industrialization. Examples might even be cited to show that, even in relatively mature economies, the "general economic development" must be held to include a large agricultural employment to possess a high degree of stability.

What is really required to round out the thought is the reservation that industrialization is by no means a cure-all for economic ills, but is beneficial only when realistically adjusted or limited to the capital, resources and skills of a particular people. The world does want all the good bargains which nature or man can provide, but "hot house" industries do not usually provide bargains, at least not until they have grown sufficiently to be "hardened off" in the open air of competition.

We would also prefer to have reference made in this article, more specifically, to the development of basic resources, of utilities and of transport, as the logical background of secondary industry, without which it is usually inefficient and costly to the point of requiring "protection" over unduly long periods.

These amendments, we believe, would improve the article, and relate it more satisfactorily to the avowed objectives of the Organization, in particular, the expansion of international trade by the exchange of goods and services.

Article 11. Plans for Economic Development

This article is really a restatement of the concept of the preceding, but in the form of a commitment to "promote" such development and to "cooperate through the Economic and Social Council and other intergovernmental agencies" in such activities. (Article 11) A third paragraph of Article 11, stipulating that the Organization shall furnish advice and technical assistance "within its competence and resources," is now under reserve to be referred to the Economic and Social Council for an expression as to the Organization's competence. We regard the function of providing "technical assistance" as usually defined in discussing industrial development quite inappropriate to the Trade Organization. We have, therefore, recommended that this third paragraph be omitted entirely. In any case, a reservation as to military techniques would be appropriate.

Article 12. Means of Economic Development

This article consists of five numbered paragraphs, of which the first is a statement of principle, the next three, commitments by members, and the last, a provision for complaint and consultation procedures.

The first paragraph sets forth the prerequisites of "progressive economic development" as "the availability of adequate supplies of

(a) capital funds; and

(b) materials, equipment, advanced technology, trained workers and managerial skill".

It is somewhat inexact to say that all these are required for economic development in general; they are obviously prerequisites of *industrial* development of a more or less advanced type. But, in passing, there are other prerequisites, such as for example, power and transportation, which can hardly be regarded as "materials". We have suggested that this statement could more appropriately be added to Article 10 and omitted here.

Paragraph 2 is a commitment that members agree to "impose no unreasonable impediments" to the access of other members to "facilities required for their economic development." This stipulation is in itself obscure, but it is discussed in the accompanying report in some detail, under the several heads of "Provision of Capital", "Supplies", "Technology and Training" and "Mutual Responsibilities". Taking the paragraph of the Charter and the report together, it imposes upon the members whose economies are more industrialized a serious responsibility, but this is probably as it should be, and most advanced countries are prepared to facilitate the diffusion of industrial techniques and to provide capital for ventures they regard as promising on terms they regard as reasonable. There might be a temptation to abuse this privilege, but this is not a serious matter.

The next paragraph, we do not regard in the same light. To avoid any question of emphasis, we quote it in full

> "(3) Members agree to co-operate *within the limits of their power to do so*, with the appropriate intergovernmental organizations of which they are members *in the provision of such facilities*."

This paragraph, we regard as dfinitely unacceptable. The International Bank, certainly, may provide capital in cases which commend themselves to its judgment. On humanitarian grounds we would favor having cropping techniques and plant research results, which are already public property, exchanged or passed along through the Food and Agriculture Organization to whatever extent might prove worth while. Otherwise, we do not regard it as an appropriate function of any international organization of which this country is a member to provide any of the facilities to which reference is made. If such an organization should come into possession of any such "facilities", the degree to which it might make them available for commercial purposes should, and in our opinion, would be explicity limited by their organic agreement. Our representatives should not in any case be concluded by a commitment to "cooperate within the limits of their power to do so," For example, should this paragraph be given its full pay, any technological advances coming to the notice of UNESCO through its educational activities, even though originating in private research, would become part of the "public domain", a situation which would rather limit UNESCO's usefulness than accelerate the diffusion of industrial techniques.

It is quite possible that, in drafting, this paragraph was given more breadth than was intended; but the ambitious plans of some international agencies lead one to suppose that it might operate as suggested. The paragraph should, in our opinion, be deleted or reduced to much more realistic proportions.

Paragraph 4 provides in fairly explicit form that the recipients of facilities for industrial or other development will observe rules of the game which have been set, or which the Organization itself may promulgate as provided in a later article. (Article 66 under Organization, which provides for the adoption of "multilateral conventions and agreements with respect to any matter within the competence of the Organization"). This reference is to obligations such as are undertaken in treaties of amity and commerce, conventions on industrial property, and fiscal treaties, which are discussed in our appendix. Moreover, the recipient members agree to "take no unreasonable action injurious to the interests" of the nations or entities supplying the facilities.

This paragraph is well drawn and a desirable stipulation from our point of view.

To be of practical value, it must be further implemented by the negotiation of a network of bilateral treaties (which is one of our urgent and repeated recommendations) or through the adoption by the Trade Organization of a multilateral convention or code on each of these subjects to which general adherence can be required. In our opinion, the latter is a slower process than the former.

The fifth paragraph is purely procedural and provides for the Organization's receiving complaints of non-compliance with any of the three preceding stipulations, but this only leads to a "request" that the members concerned consult on the matter. This provision is, it would seem, inadequate and ineffective. In accordance with our general attitude, we would prefer to see such individual provisions eliminated, and a uniform procedure established in the appropriate section of Chapter VIII on Organization for dealing with any such failure to live up to an obligation, and imposing appropriate penalties if the case were proven. All that would then be required here would be reference to that procedure.

Article 13. Governmental Assistance to Economic Development

This article deals at some length with industrial expansion in terms of industries which receive government protection. Of the three paragraphs, the first two are substantive and the third procedural, but important in that it permits broad dispensations by the Organization.

The first two paragraphs comprise, first, a recognition that protection may be required for the "establishment" or "reconstruction" of particular industries, and second, that such protection may be unwisely used to the detriment of both domestic and foreign economies and of trade. These statements are hardly definite enough to be controversial.

The third paragraph is really significant. It provides, initially, that if the measures taken to protect an industry do not conform to the Charter commitments of the member, it shall promptly inform the Organization, which will then call in any other members whose trade may be "substantially affected". If the protective measures conflict with any obligation negotiated under Chapter V (General Commercial Policy), the Organization will try to get the members affected together to negotiate an adjustment. We now quote:

"Upon such agreement being reached, the Organization may release the applicant member from the obligation in question or *from any other relevant obligation under the Charter*, subject to such limitations as the Organization may impose."

In any other case (i. e., if the measure conflicts with some obligation outside of Chapter V)

"The Organization may, in its discretion, release the applicant member from the obligation in question, subject to such limitations as the Organization may impose."

Thus, while a modification of tariff or quota commitments is not possible without agreement of the members concerned, a dispensation is possible in any other matter than those covered by Chapter V.

While we do not regard the provision as inadmissible, we wish to point out that it does derogate from the definitive commitments found elsewhere in the Charter and is not easily referable to all the commitments it might affect. For this reason, we reiterate what was said above, that provisions of this type should not be found scattered throughout the Charter, but should be assembled in Chapter VIII and assimilated one to another. Incidentally, the general provision for a waiver of obligations (Article 66–2) requires a two-thirds vote, which this article does not. Such inconsistencies are avoidable.

CHAPTER V. GENERAL COMMERCIAL POLICY

Under this Chapter and heading have been assembled the bulk of those provisions which have to do with the exchange of goods and services, to which we shall refer for convenience as "physical trade." In the Suggested Charter, this comprised the largest single portion of the text, making up twenty-three of its forty-seven printed pages. In the Reprint, it still contains nearly half of the text of the entire Charter, and of course deals with subjects of the most practical significance to the American business community. And in general, the provisions of this Chapter are much more susceptible of analysis and precise criticism than the more general phraseology of the preceding portions of the Charter. This is largely due to the origins of this Chapter, which we have already identified as largely the familiar outlines of the reciprocal trade arrangements formerly entered into by this country as a result of bilateral negotiations, and now being translated into multilateral form. Thus the bulk of the articles which make up this section of the Charter, are in the form of definite commitments rather than mere recitals of general principles, with a minimum of real implementation. These commitments are phrased in words of known meaning in diplomatic usage, and do not present unsatisfying problems of interpretation. However, along with these commitments, our negotiators have had to take a series of exceptions and reservations which, in the aggregate, are of substantial import, and tend to derogate from the general application of the positive stipulations. As each of these is discussed in some detail in its proper order, further generalization is not profitable. The Chapter is in fact divided into nine Sections, each of which is a subject in itself. We wish to direct particular attention to the analysis of Sections B, C, and E, in the pages to follow.

Before stating our appraisal of this Chapter, we must indulge in a few brief generalities. An evaluation of the commitments undertaken by foreign nations to meet our concepts of liberalized multilateral trade, as compared with the various exceptions and reservations allowed under the Charter, can hardly be made without reference to the results of the specific tariff negotiations which are to be undertaken at Geneva on April 8th next. From those negotiations, if they are successful at all, will emerge the arithmetic of tariffs, preferences and quotas with which international traders have to deal in their day-to-day transactions. And the interrelation of these arithmetic factors with the general policies spelled out in the Charter, is even more definite now than it was prior to the Preparatory Committee's meeting at London. Moreover, we would be wrong to assume that the Charter as written, and this Chapter in particular, are rigid in their application, or incapable of amendment. By a two-thirds vote, the Charter itself may be amended in any respect: and by a like majority, it is possible for the Organization to grant a dispensation "in exceptional circumstances" relieving a member from the obligations assumed. There is no "veto" in this Organization, and in a very real sense, since we may find ourselves in a definite minority on creditor versus debtor issues, we should not enter lightly into the project, on the assumption that the written word which we are now discussing will necessarily be the code by which issues some years hence are to

be judged. However, it seems inevitable that there should be some such provision for special relief and for amendment, and we must take some chances if we are really disposed toward economic collaboration on a formal basis.

We wish to note two specific Articles, 32 and 33 in Section E on State Trading, which we regard as definitely inappropriate for inclusion in the Charter, the former because it involves responsibilities of supervision over such enterprises which cannot very well be discharged, and the latter because it is essentially inconsistent with the general principles of the Organization and is wholly directed in the direction of bilateralism.

With these general reservations in mind, and with the specific exception of Articles 32 and 33, the National Foreign Trade Council does recommend approval of the content of Chapter V on General Commercial Policy, as contained in the Revised Charter. Articles 15 to 23 inclusive, which are not included in the Revised Charter because they are subject to textual revision by a drafting committee, but are included as last written in the Reprint, may be considered as included in the above approval, unless their intent should be substantially changed in the revision now in progress.

Notwithstanding this general approval, we shall endeavor to take a close view of the particular stipulations as we come to them, since there are numerous points to be made as to which definite improvement of the arrangement, wording and even substance of these articles is possible, and from our standpoint highly desirable.

Section A. General Commercial Provisions

This section comprises ten articles, numbered 14 to 23 inclusive. The first, Article 14, is a Most Favored Nation clause, with reservations as to preferences, and the other nine are all more or less detailed clauses on what we might call customs administration and practices. These nine are the ones referred to the drafting committee, and it may be that when they emerge, they will be assigned another location in the Charter. In our opinion, none of the nine clauses is comparable in importance to Article 14 or particularly related to it, nor are they particularly essential to the successful operation of the Organization or its program, with the possible exception of Article 17 relating to Anti-dumping and Countervailing Duties. While the subjects dealt with are of definite practical interest to traders, they seem to be more on the order of by-laws as compared with a constitution, or a protocal compared with the main text of a treaty.

If these matters are to be dealt with in the Charter, we believe they should be segregated in a separate Chapter to be called, say, "Customs Administration". There is really a very close continuity between Article 14 and the present Article 24 on "Tariffs and Tariff Preferences", which is interrupted by the insertion of this unrelated and less important matter at this point. We would recommend that Articles 14 and 24 be brought together in a single chapter, which could then be entitled "Customs Tariffs." The two subjects are in fact discussed together in the London Report.

Aside from these questions of arrangement, there is no occasion for general comment on the section, since its unrelated articles must be treated separately.

Article 14. General Most-Favored-Nation Treatment

This article consists of two paragraphs, the first of which, as noted in our discussion, in the Appendix of this report, of the Reciprocal Trade Agreements, is a restatement in multilateral form of the unconditional most-favored-nation clause to be found in those agreements. Additional provision is made in the Charter for similar treatment with respect to transfer of payment. Except for these matters, this stipulation applies exclusively to "importation and exportation", and specifically, to "customs duties" and charges of any kind, the methods of levying them, and rules and formalities, in connection with importation and exportation. That is to say, it applies to physical trade as distinguished from any other elements in international commerce and particularly to the rates of duty and the methods by which the ultimate amount of duty to be paid is ascertained.

The acceptance by a considerable number of foreign nations of this principle, even with this limited application, would be a very substantial and encouraging accomplishment. However, it is clear that the removal of barriers to trade and discriminations in commerce is a much larger problem than that dealt with by this article or by those related to it. To permit a satisfactory expansion of trade, what is required is not merely assurance of equitable treatment of the goods themselves when they reach the Customs House; similar assurances are needed for the salesman with his literature and samples, or the travelling buyer

for the marketing branch and its personnel, and for the financing banker, the underwriter and the carrier. A question may be raised in fact whether the degree of freedom accorded by the most-favored-nation clause is adequate, and many authorities suggest rather a stipulation for "national" treatment; that is, treatment not less favorable than that accorded by a country to its own nationals. (An example of a stipulation providing for national treatment is the following article, Article 15 of the Revised Charter.)

The limited application of this article (that is, to physical trade and the rates of duty) is not the only occasion of concern. This provision is not applicable to preferences in force July 1st, 1939, either with respect to territories under common sovereignty on that date (which would include certain British dominions and the Philippines) or with respect to Cuba and the United States. Nor is it applicable to preferences in force on July 1st, 1946, exclusively between neighboring countries. Such preferences, however, are not to be increased, and are to be eliminated in time as provided in Article 24. Despite objections in principle which are matters of record, we believe this realistic approach is about all that can be expected at this time.

Article 24 is a commitment to engage in negotiation, and the value of this commitment necessarily depends upon the outcome of such negotiations. Since rather extensive discussions are scheduled to be held early in April, it is to be hoped that some definitive treatment of this highly controversial subject will be possible before the final wording of the Charter is developed.

Article 15. National Treatment on Internal Taxation and Regulation

This article deals with what we call "excises," that is, taxes or charges (other than customs duties) imposed upon articles or commodities as such, and prohibits discrimination as between articles of foreign origin and those of domestic origin. The occasion for this is that certain countries (including the United States) have resorted to the imposition of such excises as a measure of protection of domestic industry, in lieu of, or in addition to, protective tariffs.

The article as written, like the preceding Article 14, may be recognized as derived from the usual stipulation on this subject in the Hull Trade Agreements (for example, Article II of the Agreement with Mexico).

It is quite acceptable in form and substance, so far as it goes. We would prefer a much broader stipulation for "national treatment" in fiscal matters, not only of the goods, but of the enterprises, interest and activities of foreigners, and definite assurance of nondiscrimination in taxing particularly. If the article were so revised as to have that effect, it should be limited to general phraseology, leaving the more precise details to whatever diplomatic implementation can be arranged, either bilaterally or through the Fiscal Commission of the Economic and Social Council.

It should be noted that the "national" treatment stipulated in this article could operate concurrently with "most-favored-nation" treatment as to "internal taxation or regulation." There is in practice no conflict between the two concepts, as either one may produce the maximum advantage in differing situations.

Article 16. Freedom of Transit

This article provides for privileges of free transit through the territory of one member country, of "traffic" originating in or destined to other countries. The phraseology is familiar, being the substantial equivalent of Article XIII of the Mexican Agreement, plus the addition of Paragraph 6 which is by way of definition.

In view of the broad definition of "traffic" inserted in this article by the London Conference, it is presumed that the phrase "other means of transport" would be understood to include commercial aircraft, and it has been pointed out that a qualification should be inserted to make sure that this stipulation does not override or confuse arrangements which have already been made at some pains through PICAO to deal with this rather technical matter. We feel that this point is very well taken, and should be recognized by an appropriate amendment of the article, or the definition contained in Paragraph 6.

With the above reservation, this article seems to be a sound provision, and should be incorporated in the Charter. As stated above, we believe this article, with the several following, could profitably be treated as administrative matters.

Article 17. Anti-Dumping and Countervailing Duties

This article limits the cases in which duty may be imposed (as well as the amount of duty) to compensate for artificial situations created by government subsidies or sales below cost.

We believe that the article as drawn is somewhat too broad, and that the propriety of imposing such duties upon imports upon the presumption that they have been sold below "cost" in the country of origin is open to serious question, especially when the burden of establishing such cost is arbitrarily thrown upon the importer, who may be in no position to support it. If the imposition of such additional duties is limited to goods upon which a Government bounty or subsidy is paid, this objection is largely disposed of.

It is thought, however, that the imposition of duty at prevailing rates, on valuations based on normal transactions, is a more appropriate practice. The resort to anti-dumping duties has, in our opinion, resulted in much more dissatisfaction and actual damage to trade, than the aggregate of the practices and abuses which these measures were intended to correct.

Article 18. Tariff Valuation

This article consists of two paragraphs, the first setting forth merely an undertaking to attempt a standardization of definitions of value, and the second paragraph stating four rules of general application. In view of the amount of expert analysis already available on this subject, particularly that of the International Chamber of Commerce in 1937, it is reasonable to expect that, if this subject is to be dealt with at all, much more definite disposition of it should be attempted.

A useful principle, to which no direct reference is made, is that in the absence of proof that they are fictitious or artificially arrived at, the actual prices in the transaction or quotations on world markets, shall be the starting point of valuation, and that if resort is had to a substitute measure of valuation, the burden should be upon the official invoking such substitute to show that it is more realistic and reliable. This may be intended by the words "actual value" but the statement could be substantially clarified to advantage. Subject to these reservations, the article is entitled to approval and support, since the points dealt with are acceptably stated and sound in themselves.

Article 19. Customs Formalities

Any action whatever which can be promoted or taken looking toward the simplification of customs formalities, and the limitation of expenses incident thereto, can be assured the whole-hearted support of the business community. This country has long been, and is, one of the most serious offenders in this respect, and it is quite appropriate that our representatives should emphasize the importance of relaxation of such impediments to trade.

This article is sufficiently comprehensive in content and quite explicit in form. We also commend the practical suggestions of the United States Associates of the International Chamber of Commerce that the 1923 Convention on the Simplification of Customs Formalities be revised by a conference to be called for that purpose. This is probably a subject which would be best dealt with by personnel familiar with customs administration, rather than at high diplomatic levels.

Article 20. Marks of Origin

The adoption of reasonably uniform regulations regarding the marking of goods to indicate origin would be a most satisfying development. There is, however, a thoroughly sound basis for insistence on the part of importing countries upon such marking, and an advantage to exporting countries whose products have established a general reputation for quality. While endorsing the principle that such requirements should not involve unreasonable difficulties and expense, we believe that it would be equally constructive to educate producers of goods intended or suitable for export to apply origin marks along with their trade-marks so as to meet any reasonable requirements. The general use of such marking in goods which are sold to domestic consumers is subject to no serious objection. A proper regard for the customer's preferences suggests that this is good business practice.

We believe this article is well considered in general, but an attempt should be made to reduce the number and broad applicability of the stated exemptions from marking requirements.

Article 21. Publication and Administration of Trade Regulations—Advance Notice of Restrictive Regulations

Paragraph 1 of this article provides in comprehensive terms for the prompt publication of matter affecting customs administration and tariffs. Paragraph 2 further provides for reasonable administration and review, and prohibits

illegal exactions. Paragraph 3 protects goods already en route from the application of new regulations which effect increases in duty or impose additional burdens upon imports or exports.

All these stipulations are to good effect, and their adoption would be salutary. In all fairness, however, it must be acknowledged that information on foreign tariffs is, with only occasional exceptions, made available promptly by the national authorities concerned, and that it is the lack of facilities for the prompt dissemination of such information abroad that results in embarrassment and confusion to traders. The mere transmission to the International Trade Organizations of such data would not accomplish the result desired, unless some agency should undertake the assignment of publishing an authoritative digest of such matter for general distribution. The question may be raised whether such a large venture is properly to be undertaken by, and at the expense of, the ITO, or rather left to the appropriate departments of the governments of nations which are willing to provide such facilities at their own expense. As for the United States, such information is circulated to some extent by the Department of Commerce, and in England by the Board of Trade.

The balance of the article is, we feel, of definite advantage. So long as the temptation exists to increase custom revenues by resort to such practices, specific commitments to abstain from them are certainly of interest to traders, and to importers abroad.

Article 22. Information, Statistics and Trade Terminology

This article provides for the furnishing by members of comprehensive data on physical trade, and the development and adoption of uniform statistical practices and nomenclature. The general intent is good and the provisions are adequately phrased to accomplish their purpose.

One feature requires comment. In several passages, it is stipulated that statistics shall be furnished "in as detailed and accurate a manner as practicable." This phrase is subject to a wide range of interpretation. Some countries may rely upon it to excuse rather casual reporting of information. At the other extreme, there is the danger that an expansive interpretation might lead to disclosures not in the national interest. We recommend that a reservation be inserted to the effect that the information exchanged shall be essentially "statistical" and that the article shall not be construed to require the furnishing of information in such detailed form as to constitute a disclosure of individual transactions or the interests of individual enterprises, except with the consent of those concerned.

Article 23. Boycotts

This article is an undertaking in effect, not to "encourage, support or participate in boycotts" or similar measures.

This would hardly seem to be controversial, if the natural development of international trade is sincerely desired. The inclusion of the article in the Charter appears to be appropriate.

Section B. Tariff Preferences

Thels section comprises a single article, now numbered 24, which was formerly Article 18 of the United States Suggested Charter. The close interrelation of this article to the content of Article 14, the most-favored-nation clause of the Charter, obviously suggests that they be brought together in a single section. The London conference gave very special attention to this Section, and several modifications of the American text were made. These changes are very illuminatingly pointed out in the Report in Chapter III, pages 9 and 10, so that no misunderstanding of their import should arise.

Article 24. Reduction of Tariffs and Elimination of Preferences

The importance of this article to the success of the program cannot be judged from its rather short text. It consists of only three paragraphs, but reflects a great deal of difficult negotiation and discussion. The first paragraph in essence is a commitment to enter into negotiations looking to the substantial reduction of tariffs and the elimination of tariff preferences. This short statement, however, is implemented by a quite detailed set of procedures controlling the expected negotiations, which are now definitively set for April 8th next at Geneva. These are printed as Annexure 10 to the London Report, entitled "Multilateral Trade-Agreement Negotiations." (Report, pages 48-52.) Two main premises are stated, first that prior commitments shall not constitute obstacles to tariff reduc-

tions or elimination of preferences, and second that in case of reductions of tariff rates, these "shall operate automatically to reduce or eliminate margins of preference." A third premise was added at London, that the binding of low tariffs or free entry shall be considered in principle the equivalent as a concession of tariff reductions—a notably fair recognition of the position of certain liberal economies.

The balance of the article sets out the remedial action which may be taken if a member fails to enter into such negotiations "without sufficient justification." The remedial action intended is first a complaint to the Organization, and second, upon its finding of such unjustified failure, the sanction of withholding most-favored-nation tariff advantages. If this sanction is applied, even by one complaining member, the offending member may withdraw from the Organization.

The first paragraph is believed to be a fair statement of the only realistic method of dealing with the problem of unreasonably high tariffs, and preferences. In our opinion, the attempt at implementation is not realistic, nor would the sanction proposed be effective. Assuming, for example, that two countries now have certain customs arrangements which include most-favored-nation clauses, and that they both become members of the International Trade Organization, so that the Charter supersedes their bilateral pact; one nation may decline to negotiate, be penalized, and withdraw, with the result that its previous pact would probably become operative again. The offending nation would presumably be prepared for just that eventuality, so that the attempted sanction would be quite futile in that case.

We believe that the incorporation of specific sanction provisions in this article is undesirable and unrealistic. The Council has argued in other connections that the whole bargaining power of this nation should be marshaled and employed to attain comprehensive diplomatic arrangements from other nations. The use of specific sanctions, resort to which may result in mere withdrawal from such comprehensive arrangements, is quite inconsistent with this broader view, and in our opinion, quite futile in application.

We, therefore, recommend specifically, that paragraph three of this article be deleted in its entirety. If sanctions are to be applied, they should be carefully considered, and of more general applicability, and should be provided for in the Chapter on Organization.

Section C. Quantitative Restrictions and Exchange Control

This section comprises five articles, 25–29 inclusive, all directed at the elimination or mitigation of quotas and similar practices, and assurance of equitable administration of those controls which are recognized.

The construction and arrangement of this section leaves much to be desired, and aggravates the difficulties inherent in the subject. Article 25 starts out as a prohibition upon resort to restrictions upon imports, but is limited by seven exceptions. Article 27 is not so much a prohibition upon quotas, but applies the most-favored-nation rule to those which are adopted by members (affecting either imports or exports), so as to avoid discrimination. Article 26 provides for dispensations in respect to import restrictions in favor of nations having "balance of payment" difficulties. Article 28 (except for a few lines) deals entirely with dispensations permitting discriminatory application of controls, due to monetary difficulties, including the availability of "scare currency." Article 29 relates to the relations of the International Monetary Fund and the Trade Organization, and probably will require common membership, though this is not yet decided.

Thus three of the five articles relate primarily or exclusively to monetary difficulties as grounds for dispensations, or more generally to the interrelation of controls of physical trade and currency measures and the international agencies concerned. The provisions of these articles are elaborate and probably obscure to anyone who is not fairly conversant with the Bretton Woods program and with our government's bilateral financial arrangements, notably that with the United Kingdom. It would seem that there is very real danger that the purposes of the Fund may be frustrated by the attempt to cover the subject of monetary difficulties in the Charter. It is not collaboration that is required so much as simply referring the determination of whether such difficulties exist to the Fund, and providing that in the event of an affirmative finding, relief under these Charter provisions shall be automatic.

Such a device would conceivably permit the boiling down of Articles 26, 28 and 29 to a single article, of more reasonable proportions, which might be fairly intelligible without special research.

As it now stands, the normal reader of the Charter is likely to be confused and discouraged over the number and variety of situations in which member countries are permitted to resort to controls or to quantitative restrictions, and to apply them in a definitely selective manner. He might even gain the impression that the Charter of the Organization is more lenient as to trade restrictions than the Articles of the Fund are with respect to exchange controls, especially in the light of the substantial elimination by the London Conference of Article 23 of the Suggested Charter requiring payment in free exchange for current commodity imports, which was a paraphrase of Article VIII, Section 2 of the Fund Agreement. The purpose of the Fund certainly is not to subsidize bilateralism, or the trade restrictions tending in that direction.

It is only natural for the business man to feel some disappointment at the degree to which our government has accepted the necessity of such restrictions. It is quite unfair, however, to generalize on this subject. We believe a sincere effort has been made to ameliorate conditions which now exist quite generally, and to phrase rules and provisions capable of general acceptance, with those concessions which are considered unavoidable as prerequisites to such acceptance. There are certainly nations whose adherence to the Charter is desirable or even critical, which cannot reasonably be expected to accept an unqualified repudiation of quantitative restrictions at this time. As the expiration of the postwar transition period approaches, and existing emergency conditions are corrected or improved, the chances of a more general abandonment of quantitative controls will be much improved. We, therefore, believe that the compromise proposals now incorporated in this section of the Charter are entitled to be regarded as in general acceptable, if not in principle, at least as the most constructive presently attainable.

Article 25. General Elimination of Quantitative Restrictions

Paragraph 1 is a general undertaking against resorting to prohibitions and restrictions other than duties and taxes, particularly mentioning quotas and licensing measures. This general rule applies to both imports and exports, but is subject to exceptions which are so extensive as to leave too little substance to the rule. In fact, from a reading of the various exceptions, it is doubtful whether any existing quotas or restrictive controls could not be justified on one or several of the permitted grounds.

Paragraph 2 (a) relates to controls imposed to assist in price controls or in the distribution of products in short supply, and the liquidation of surpluses owned by governments or war industries. These exceptions are to cease as of July 1, 1949, unless extended by the Organization for a maximum of six months for each such extension.

Sub-paragraph (b) excepts export restrictions on "foodstuffs and other essential products." This is susceptible of very broad interpretation. It would be improved by limiting it to "foodstuffs, clothing and shelter, and articles and materials directly involved in their production and distribution."

Exception (c) relating to classification and grading, is not objectionable, at least in principle.

Exception (d) permits such restrictions as may be necessary to execute intergovernmental commodity agreements. Since we regard such intergovernmental agreements and activities as objectionable in themselves, we also regard this exception as equally objectionable.

Paragraph (e) permits quota restrictions on the importation of "any agricultural product" to implement domestic restrictions on production and marketing, or to "remove a temporary surplus." While it is difficult to follow the involved wording of this exception, we understand it to be related to the particular type of "planned economy" from which this country is presently trying to free itself, and therefore, we regard this particular exception as definitely vicious. This type of restriction, inherently dependent upon the exercise of administrative powers under wartime or "emergency" statutes, should be promptly abandoned if our economy is to be restored to health. We believe the same considerations apply to nations which are normally buyers of our agricultural products, as well as to our purchases abroad for import and consumption here.

An additional exception, (g), has been made in favor of "import or export restrictions imposed 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 and 33." This new exception, inserted at London, would seem to dispose of whatever substance the prohibition against quantitive restrictions retained, after the previous exceptions, and allowing for those con-

tained in the following articles. Moreover, any nation so disposed, might restrict imports or exports by the simple expedient of setting up a state-trading enterprise, and thus avoid any necessity of showing hardship as would be required in the case of balance of payment or exchange difficulties. It would appear that the effect of this exception is simply to place a premium upon the expansion of government commercial adventures.

Although exceptions (b) and (c) are legitimate in principle, and (a) will probably prove to be transitory, we regard the others as to be accepted only with the greatest reluctance, as impairing the substance of the main prohibition to the point of futility. It is true that these exceptions (other than the last mentioned) are understood to be directed at specific categories of goods, or specific circumstances affecting single commodities, but to be realistic, the possibility of a given country expanding such categories to include its entire foreign trade is not too remote. Certainly it is not good to place a premium upon such expansion of exceptions to destroy the rule.

The exceptions permitted in the following articles are more general in their application, and do not relate primarily to categories of goods.

Article 26. Balance of Payment Restrictions

This article constitutes an exception to the prohibition on quantitive restrictions in the event of a country experiencing or anticipating difficulties in its balance of payments. The article is very elaborately and somewhat obscurely drawn, but its import is quite clear in general. It permits, for all practical purposes, the unilateral application of global quotas, which are subject to review by the Organization as to their propriety in terms of fiscal emergency. It would seem that this is unduly complicated, and imposes upon the Organization a duty which simply duplicates the function of the International Monetary Fund. The availability of a resort to quotas should be made dependent upon the issuance of a certification by the Fund that the applicant nation is in difficulties, either as to balance of payments or as to monetary reserves; and so long as that condition persists, the certification should stand, and permit the continuance of import restrictions. Certainly this is a practical and simple way to dispose of the matter, since most traders do not expect or desire to continue to export to a country until the very last drop of its foreign exchange has been drawn. Reasonable prior measures are normally taken by the international banking fraternity to inform prospective shippers of such developments, so that trading tapers off more or less of its own accord. If, as and when these functions are formalized within the Fund, its own operations require that findings of critical shortage of foreign exchange or reserves be made in proper cases, and unless such findings are made, it would not seem appropriate for the Organization to take action predicted upon such a showing to it rather than to the Fund. This might result in unfortunate inconsistencies and seriously impair the effectiveness of the Fund machinery, just when it was most needed to support a threatened currency. This suggestion of certification by the Fund would make most of the text of this article superfluous.

Aside from this, we may confine our attention to a few provisions in this article which we regard as undesirable. Paragraph 8 (d) of this article sets up a sanction procedure similar to that contained in Article 24, so that in the case of an unjustified resort to quotas on imports, or their application in a discriminatory manner, the tariff advantages stipulated in this Chapter may be withheld, but the offender is free to withdraw from the Organization. As in the case of the earlier stipulation for sanctions, we regard this as inappropriate and to a degree self-defeating. In any case involving the non-compliance with any one of its obligations, a member should not be punished by a procedure which merely results in relieving him of all his obligations. Procedures should be as nearly uniform as possible in any case, and should provide for adequate review and ultimate appeal to the International Court of Justice.

A further point is developed in paragraph (5), which deserves notice. There it is provided that if resort to quotas becomes widespread, indicating general "disequilibrium," the Fund shall be called into consultation and eventually not only the countries under pressure but the "countries whose balances of payments are tending to be exceptionally favourable" to discuss measures which are to be taken by any of them. While we do not disparage the virtues of consultation, we submit that action, if taken, should be taken long before the infection becomes epidemic. It is in the monetary mechanism of the Fund that the early symptoms may be looked for, and our suggestion as to its certification should assure a fairly prompt diagnosis, and even appropriate treatment, which might include the patient going on a strict regime. But we do not accept the implication that payment difficulties are necessarily the fault of the creditor.

This article could be substantially improved by simplification in the manner we have suggested, and the elimination of extraneous and inconclusive matter such as we have just commented upon.

Article 27. Non-Discriminatory Administration of Quantitative Restrictions

This article comprises several somewhat unrelated paragraphs, except that they are all intended to eliminate discriminatory practices.

Paragraph 1 is a restatement in terms of quotas, of a sort of most-favored-nation rule. It requires equality of treatment in respect of exports and imports.

Paragraph 2 favors quotas in preference to non-quota licensing measures. It requires publicity on import restrictions, as well as of changes in them. It further provides that if individual country allotments are made, they shall be on an historical basis, that is, reflecting the shares of imports enjoyed in a representative period.

It would seem that this implied recognition of allotments by country is objectionable, since the vices of such practices are not cured by the device of dividing limited import quotas into fractions which impose still further limitations.

As a practical matter, it would be infinitely preferable to keep to global quotas. Obviously, certain countries may currently have relatively larger exportable surpluses than the aggregate of quotas to which their prewar trade would entitle them; whereas other countries which were large factors in prewar trade may, for various reasons, be quite unwilling or even unable to export the quantity or kind of goods to which such a system would limit their overseas trade. Certainly the resort to such rigid regimentation is not compatible at all with a natural flow of trade, let alone its expansion. We, therefore, consider the inclusion of this paragraph as dangerous and inadvisable.

Paragraphs 3, 4 and 5 are largely interpretative and do not require particular comment.

Article 28. Exceptions from Rule of Nondiscrimination

This article creates an exception to the general rule against quotas, in favor of members of the International Monetary Fund which either may be allowed certain dispensations by the Fund as a result of currency difficulties, or be entitled to special consideration due to common sovereignty.

In view of the adherence of the United States to the Fund and its Articles, we hesitate to criticize a provision which on its face merely conforms to that project. Obviously, exchange restrictions are not self implementing in all cases, and may require the assistance of quotas or import limitation. Nevertheless, the phrase "quantitative import restrictions having equivalent effect to any exchange restrictions" is so obscure as to be objectionable on that ground alone. Article VII of the Fund Agreement is entitled "Scarce Currencies," and naturally, the implication of this stipulation is that low quotas may be set on imports from nations whose currencies become scarce. It would seem, therefore, that the United States has a right to, and a paramount interest in, a clear definition of the circumstances under which this article may be invoked.

Article XX of the Fund Agreement relates to currencies of dependencies of members, which may be tied to the par value of the member's currency. If this is so, obviously the maintenance of a stable currency relationship may suggest restrictions on trade with nations other than the mother country. Canalization of trade on political lines is not compatible with the expressed purposes of the Charter; even if such a policy is to be followed by any nation, we urge that the obvious and direct method of effecting that purpose is the imposition of tariffs, and it should not be disguised by resort to quotas or currency tie-ins.

In view of the fact that understanding of the regulations and mechanisms of the International Monetary Fund is necessarily limited, this article may almost be regarded as a "joker" in its present form. We believe it should be amended to provide simply that the availability of dispensations permitting discriminations in the application of restrictions shall depend, in short, upon the certification by the Fund that, for its purposes and in its judgment, a case of hardship has been made out, and that its own machinery is in operation on that basis. As in the case of Article 26, this device would eliminate conflict between the Fund and the Organisation, and permit substantial reduction of the text of this provision.

Article 29. Exchange Arrangements

This article as it comes from the London Conference, consisting of some six paragraphs, is substantially new and differs fundamentally from Articles 23 and 24 of the United States Suggested Charter which it replaces. The central concept of this stipulation is that there shall be "co-operation" between the Fund

and the Organization to the end that the purposes of the one shall not be "frustrated" by the action of the other. This is implemented by a qualified provision for common membership in each agency, though this qualification may eventually be eliminated. In our opinion, common membership should be required; at the very least, members of the Trade Organization should accept the jurisdiction of the Fund in the determination of whether exchange or monetary difficulties exist which are legitimate occasions for the application of trade controls at all, or in a selective manner.

As we see it, this whole article should be recast to conform to a recognition of the exclusive (not joint) competence of the Fund in matters of exchange and payments, so that determinations of the kind required in this section will be made consistently with the Fund Agreement and its plain concepts, and not require adjustments to the less definite provisions of this section of the Charter of the Trade Organization.

We may repeat that this Article 29, could to advantage be assimilated to Articles 26 and 28, if this device were adopted, and quite a large portion of the "frustration" which might otherwise develop thus be effectively prevented.

Section D. Subsidies

This section comprises a single article, 30, and discussion of the section may be limited to the suggestion that it could logically be merged with Section E, **State Trading**, since subsidies and state trading present common problems in international trade, especially when the former is expanded to include price support, and common or similar remedies may be prescribed to mitigate or eliminate their effects.

Article 30. Subsidies

This article really deals with three elements. Paragraph 1 relates to any "subsidy *including any form of income or price support*", and merely requires the member to report the extent and nature, and the anticipated effect on exports and imports.

Paragraph 2 prohibits export subsidies, whether direct or indirect, as well as any other system which results in export differentials, except for tax factors, terms of sale, or real distinctions affecting price comparisons. This prohibition comes into force not later than three years from the entry into force of the Charter, unless an extension is granted by the Organization.

Paragraph 3 relates to domestic stabilization schemes, and provides that under certain conditions, their operations may be considered as not to be a subsidy upon exportation.

Paragraph 4 relates (a and b at least) to products which are, or are likely to become, "in burdensome world surplus" and provides for the establishment of intergovernmental commodity agreements under Chapter VII, but if such arrangements are not successful, then the members are relieved from the application of the preceding paragraphs to the product affected. Sub-paragraph (c) provides, even as to products in surplus, that export subsidies shall not be granted which result in a disproportionate share of world trade in that product, on an historical basis.

We are fundamentally opposed to subsidies by a government, as an artificial factor in trade and industry.

We are likewise opposed in principle to government programs which involve purchasing at a set price, or in competition with private buyers or to the exclusion of private purchasers for consumption or processing.

Nevertheless, we take into account the fact that many governments are committed to such practices, particularly in the field of foodstuffs and other agricultural products, and necessarily concede the sovereign right of foreign governments to adopt such measures in the development of their domestic economies.

We may concede that the prohibition of *domestic* subsidies is impracticable at this time, and that therefore, the requirement of advising the Organization as set out in Paragraph 1, is sufficient. The pressure of extravagant or unconstructive subsidies upon the economy of any nation, can be relied upon to operate, sooner or later as the most positive corrective, and it is believed that the operation of the Monetary Fund will implement and accelerate this correction. If, however, such subsidies are within the capacity of the government concerned, and may be justified in its case on social grounds (as possibly in the case of food production) we see no occasion for immediate concern, unless and to the extent that artificial factors are introduced into the foreign trade of such countries as resort to the practice.

So long as such subsidies or equivalent practices do not permit exports at lower than general world prices, we question whether any corrective action is necessary. If they do permit prices lower than general world prices, we regard "anti-dumping" or countervailing duties as the appropriate specific remedy. (These are recognized and dealt with under Article 17, to which we have given only qualified approval.)

Subsidies or bounties applicable strictly to exports are, we believe, equally or more unsound than general or production subsidies. Moreover, it may be considered more definitely within the competence of the International Trade Organization to limit or prohibit resort to them by a member country. This is done in paragraph 2, but with a three years' grace period. This period should not, in our opinion, run from the adoption of the Charter, as this places a premium upon delay in adhering to it; to parallel other provisions predicted upon the projected transitional phase, the specific deadline of December 31, 1949, should be substituted.

With this amendment, we regard paragraphs 1 and 2 as acceptable.

In commenting upon paragraph 2, we are somewhat at a loss to understand how the existence of a surplus of a given product can be relied upon to justify resort to or continuance of, a subsidy, either on production or export of that commodity. We believe that this paragraph is a reflection of certain domestic policies which are now largely discredited in the United States, and should not be perpetuated in our international relations. We regard this paragraph as inappropriate to its immediate context, and based upon concepts of questioned validity, so we recommend its deletion.

Section E. State Trading

This section comprises only three articles, 31, 32, and 33. Although in form separate from Chapter VII, the Intergovernmental Commodity Agreements, there is necessarily some overlapping, and an inherently close interrelationship which should be kept in mind. This does not seem to have been recognized in the drafting of either this section or Chapter VII. We also call attention to the close relationship of this section to the treatment of Subsidies, as defined in Section D, next preceding, to include price support schemes.

We are not optimistic as to the feasibility of reconciling, "state trading" with general commercial systems of private enterprise. The concepts of cost, profit and factors derived from these are setting them up, are either not present in state trading, or are so diluted as to be unrecognizable or unreliable. To suggest that state enterprise be governed by "commercial considerations" is, on average, unrealistic.

State trading does exist, and will probably continue to exist, in certain countries, and by certain countries operating state enterprises abroad. No diplomatic sanction or recognition of these "facts of life" is required. We have recently seen, however, that by various informal methods, it is possible to reduce the impact of state trading agencies, particularly government purchasing missions, upon private trade, at least in areas where private trade is allowed to exist.

From the above, it is clear that the provisions of this section must be regarded in the light of palliatives. It is doubtful whether, in the aggregate, they promise very much in the way of control of state-operated enterprises; whereas, on the other hand, the implied recognition of their existence which gives concern to some critics, does not seem to us to involve any substantial sacrifice or concession.

Article 31. Nondiscriminatory Administration of State-Trading Enterprises

This article attempts to impose upon state enterprises the duty of conducting their affairs upon a nondiscriminatory basis "influenced solely by commercial considerations", and subject to scrutiny by the Organization if any Member so requests. State enterprises are defined to include those in which a government exercises "a substantial measure of control".

We regret to have to express definite pessimism as to the practical results to be anticipated from such a stipulation. We do not feel that reliable criteria for the judgment of the Organization can be easily developed or applied to specific cases. However, we see no objection to including this article, for what it may be worth, and attempting that degree of supervision which experience may indicate to be profitable or practicable.

Article 32. Expansion of Trade by State Monopolies of Individual Products

This article provides in effect for the initiation of negotiations looking to the control of the domestic operations of a state-supported monopoly, and the limitation of mark-ups or trading margins, either on imports or exports.

We feel that the attempt to deal with this subject matter by multilateral negotiation and convention does not promise any substantial degree of success, and had best not be undertaken. The assimilation of such margins to customs tariffs is purely a coincidence, in that the resultant profits are substitutes for duties, or export taxes, as the case may be, in terms of governmental revenue.

Our recommendation is that this article be omitted in its entirety.

Artiol 33. Expansion of Trade by Complete State Monoplies of Import Trade

This article provides that a nation which has a complete monopoly of its import trade (as for example, Russia) may have the benefits of the tariff concessions intended by the Charter, upon undertaking to import a specific value of goods, to be agreed upon, and possibly modified periodically.

It would appear that in the search for an inducement which such a nation would or could offer other mebers, related in any way to the projected expansion of world trade, the foregoing was the only specific undertaking which could be devised. It it, of course, the reverse of a quota upon imports. However, it is difficult to see why the nation concerned should be attracted to make commitments more expansive than the demonstrated requirements of its economy, in any case. Therefore, it would seem that the supposed inducement is largely illusory.

We do not believe the inclusion of this article serves any useful purpose, and recomend that it be deleted.

Section F. Emergency Provisions—Consultation

This section comprises two Articles, 34 and 35, each of quite technical character and of some importance. Each is discussed separately below, but both are regarded as desirable.

Article 34. Emergency Action on Imports of Particular Products

This article is an escape clause permitting any member whose domestic industry is threatened with serious injury to withdraw concessions on specific products (usually tariff reductions) to the extent and for the period required to prevent the injury. As a prerequisite to such action, notification to the Organization is required, although the member retains its freedom to take the remedial action, at the peril of loss of reciprocal concessions.

Aside from the notice to the Organization, this escape clause is the equivalent of that recently incorporated in our Trade Agreements (e. g. Article XI of the Mexican Agreement). Our impression is that the existence of such a stipulation has not been of much significance, except for its cautionary effect on foreign producers, whereas it has had some appeal as a point in argument with opponents of reduction of American tariffs.

Although the article may prove of substantially greater interest to other smaller nations, particularly those largely dependent upon a few productive industries, we believe it is essentially fair and reasonable, and should be included in the Charter.

Article 35. Consultation—Nullification or Impairment

This article requires "sympathetic consideration" by any member of complaints of prejudice in almost any matter within the scope of the Charter, and consultation, and eventual investigation by the Organization. It is implemented by the possible sanction of withholding of concessions, and permits withdrawal of the offending member from the Organization.

Like the preceding article this stipulation is derived from a precedent in our Trade Agreements. (See Article XIV of the Mexican Agreement). We believe this article is sound so far as the substantive portion is concerned; but believe that the sanction provided for in the last sentence is inappropriate and somewhat self-defeating, and should be omitted.

Section G. Relations With Non-Members

This section comprises only one article, 36, which has been reserved for further consideration at a later date. Our comments are therefore based on the corresponding article (31) of the Suggested Charter.

Article 36. Contractual Relations with Non-Members—Treatment of Trade of Non-Members

This article comprises four paragraphs. The first precludes the members from enjoying discriminatory advantages in non-member territories, and the other three

preclude the granting to non-members of the benefit of concessions under the Charter, except in certain cases after one year, with the concurrence of the Organization.

The implications of this article are very broad, and it frankly proposes dramatising the advantages of membership, even to the extent of a recession of freer trade practices with those countries which do not elect to become Members.

We believe, nevertheless that this article is a necessary element in any comprehensive Charter and to the success of the Organization.

Section H. General Exceptions

This section comprises only one article, which is reserved for redrafting. Our comments are addressed to the text as it now appears in the Reprint.

Article 37. General Exceptions to Chapter V

This article permits by way of exception, the adoption of measures related to security, public morals, monetary metals, cultural treasures, national resources, only a few of which justify comment. Exception (g) refers to measures

> "necessary to induce 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, trademarks and copyrights".

The elaborately negative phrasing of this clause seems unnecessary and somewhat obscure. It should be positive, and we would prefer to limit it specifically to the matters mentioned, rather than refer to them merely as examples.

We also believe the wording of exception (j) is objectionable, since (1) any international agreements even those affecting natural resources, should conform to accepted standards and (2) the subordination to "restrictions on domestic production or consumption" is in our opinion quite too absolute. With these reservations, this article seems in order.

Section I. Territorial Application

This section comprises only one article, now numbered 38.

Article 38. Territorial Application of Chapter V—Customs Unions—Frontier Traffic

With one addition, this article is as proposed by the United States in the Suggested Charter. Aside from its interpretative provisions, which include a clear definition of "customs territory" and "union", this article contains two important elements. These are the facilitation of frontier traffic, and recognition of customs unions, and it is provided that the provisions of this Chapter shall be construed to prevent such arrangements. We believe that both these developments are essentially in the direction of expansion of world trade, and that the dispensations granted are well considered. It is realized that the subject of customs unions is too large to discuss satisfactorily in this study, and therefore our conclusion only is stated. No effort is made to reconcile the concept academically with the requirements of unconditional most-favored-nation treatment.

The addition to the article which was inserted at London reads:

> "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 be subject to approval by the Organization pursuant to paragraph 2 of Article 66."

It is rather unprofitable to speculate upon the reasons for including this stipulation in this particular article of the Charter, and no reference to this is found in the Report of the London Conference. It is not regarded as more dangerous than the general provision for amendment of the Charter in other respects, which likewise requires a two-thirds vote.

Despite some question as to this paragraph, the article as a whole is good.

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CHAPTER VI. RESTRICTIVE BUSINESS PRACTICES

This Chapter is not divided into sections, but comprises seven articles, 39 to 45 inclusive, which correspond to Articles 34 to 40 of the Suggested Charter. These articles have been extensively revised by the Preparatory Committee at its meeting in London. The effect of this revision has been to reduce considerably the

rigidity of the prohibitions contained in the previous draft, and to curtail some of the powers originally given to the proposed Organization. In its present form, Chapter VI may be regarded as representing a compromise between the different points of view prevailing among those attending the preparatory meeting.

The Chapter as now written commences with an agreement on the part of the member nations to take appropriate measures to prevent in international trade restrictive business practices whenever they have harmful effects. There then follows an agreement by the members that certain specified practices shall be subject to investigation if the Organization considers them to have such harmful effects. A somewhat complex procedure with respect to complaints and conferences is set forth, which may lead to requests to members to take action and recommendations as to the kind of action that should be taken. The Organization is also authorized to make studies which may be the subject of recommendations to members. Members are obligated to take all possible steps to insure that restrictive business practices which have harmful effect shall not be engaged in and are obligated to take the fullest account of any findings or recommendations of the Organization "in considering the initiation of action in accordance with its system of law and economic organization to prevent within its jurisdiction the continuance" of such practices.

The Redraft permits any individual member to take action under its own laws or in cooperation with other members against restrictive business practices. Finally it is provided that nothing in the Chapter shall apply to intergovernmental commodity agreements meeting the requirements of Chapter VII, or to agreements under Article 59.

Thus the general scheme is based upon a rather generalized agreement as to the restrictive practices which are prohibited, and a limited field of interpretation and recommendation by the Organization with enforcement measures entirely in the hands of the individual members. The scheme permits joint consideration through the Organization of restrictive business practices but the policing is entirely in the members themselves.

The definition of the practices prohibited is considerably less precise than in the Suggested Charter. There is far greater opportunity for the application of a "rule of reason" by the Organization as well as by the individual nations. The enumerated series of practices, which in the Suggested Charter were made *prima facie* illegal, in the Redraft are now only subject to investigation. With respect to the recommendations of the Organization, in the Suggested Charter the members were obligated to "take action", but in the Redraft the members are only obligated to consider whether or not to take action and if they decide not to take action to give their reasons to the Organization. Furthermore, the obligation of the members to consider whether to take action only applies to preventing restrictive practices "within the jurisdiction" of each member.

These very important changes in this Chapter suggest the following conclusions:

(1) that it permits considerable latitude as to the policy which the Organization may follow, and consequently that the question of voting power within the Organization (a question as yet undecided) may have considerable importance in determining the meaning which will be given to it;

(2) the members have almost complete latitude in deciding what action they shall or shall not take and consequently a wide divergence in application of this Chapter may be anticipated;

(3) the fact that such marked changes were made in the draft during the preparatory meeting would confirm the anticipation that the members in applying the Chapter would interpret it differently one from the other;

(4) the Redraft recognizes that there are jurisdictional limitations upon the enforcement action of members in the provision obligating members to take all possible steps to ensure that harmful restrictive practices are not engaged in, and in the provision obligating members to consider whether or not to take action upon a recommendation of the Organization. Both of these paragraphs provide that the obligation extends only to matters and persons "within the jurisdiction" of the member in question. However, there is no attempt to define what those jurisdictional limitations are, nor do jurisdictional limitations appear in most other parts of the Chapter.

It is not possible to conclude our general comments on this Chapter without reference to Chapter VII which deals with intergovernmental commodity agreements. By comparison with this later chapter, Chapter VI deals with restrictive business practices from a wholly negative angle. It makes no attempt to guide business men in the determination of what is legitimate. Under a very generalized statement of what is prohibited, susceptible to a variety of interpretations, the

essential vice of "government by indictment" of which we hear so much in our domestic antitrust discussions is being carried over into the international field in which the complications and uncertainties are much greater. By contrast, Chapter VII sets forth affirmatively the way in which governments, by agreement among themselves, may put into effect the very restrictive practices which Chapter VI purports to prohibit for commercial enterprises.

In our experience, the monopolistic practices prohibited to "commercial enterprises" are and have been of less effect in frustrating the expansion of trade and production than the identical practices engaged in by governments, singly and in combinations, under the commodity pools. Consistency at least requires that the same criteria of necessity or "special difficulties" should be applied to each.

The anticipated range of activity of the Trade Organization will certainly be considerable in any event. In its formative years it should not attempt too ambitious a program, lest what is not done well detract from the general appraisal of its accomplishments. We have the feeling that in this field of Restrictive Business Practices the effectiveness of the Organization will probably be less than satisfactory, whatever bias we may have on the subject. If we have the conviction that international trade is controlled by "Cartels" to a vicious degree, we will not be satisfied with the liberty accorded to each nation to take or decline to take the corrective measures which may be recommended. Those who do not feel that any such condition exists (so far as private combinations are concerned) do not feel that there is any great need for the extended discussion which has already taken place on this subject, or that discussion within the organs of the Trade Organization will do much more than distract their attention from other and more constructive effort. This feeling is supported by the indifferent success which attended the effort at London to develop areas of agreement either upon principle or implementation. The Report itself admits, in recommending further study of the subject, that

> "It was clear that it was one of extreme difficulty on which there was no unanimity of opinion among the various countries."

Thus we also have a matter on which the criterion of compatibility gives us a negative result. And if we take this Chapter as a measure, there is little reason to suppose that the competence of the Organization will be very high. As we have pointed out, the whole program will depend upon the voluntary action of the member nations in adopting legislation and administrative measures comparable to our own anti-trust statutes, a development which we must realistically regard as quite remote.

The National Foreign Trade Council therefore concludes that this Chapter does not meet any of its criteria, and recommends that it be excluded from the Charter.

With this conclusion in mind, some reference to the several articles in this Chapter are in order.

Article 39. Policy toward Restrictive Business Practices

Although this article is introduced as stating policy, it goes beyond that and states an agreement on the part of the members "to take appropriate measures individually and through the Organization, to prevent in international trade" certain business practices *whenever* such practices have harmful effects on the expansion of production and trade and the maintenance of high levels of real income, or on any of the purposes of the Organization.

In the second paragraph of this article, the members agree that the practices listed in the third paragraph shall be the subject of investigation (1) when they are engaged in by combination or agreement between commercial enterprises (including state enterprises) or when engaged in by one or more private enterprises possessing effective control of international trade in one or more products, and (2) if the Organization considers the practices to be harmful. These practices are defined in paragraph 3 as price fixing, dividing territories or fixing quotas, boycotting or discriminating against enterprises, limiting production, suppressing technology, or extending the use of rights to industrial property to "matters not properly within the scope" of the authorized grant.

The position of the words "in international trade" in the first paragraph has been altered in the Redraft so as to make plain what was probably the original intention, namely, that the general obligation did not apply to intra-national trade. This is a definite improvement.

The most important change in the first paragraph has been the elimination of the stated presumption appearing in the Suggested Charter that the prohibited

practices would have harmful effects and the substitution of language prohibiting these practices only when they do have harmful effects. This would appear to supply a "rule of reason" in place of the previous rigid language of the prohibitions contained in the Suggested Charter.

Significant in the second paragraph is the insertion of a provision covering a single commercial enterprise controlling international trade in one or more products, and the deletion of the paragraph contained in the Suggested Charter which had excepted regular marketing arrangements between a particular enterprise and its distributors. Thus the single large enterprise with branches and subsidiaries is specifically brought into the Redraft where it was omitted in the Suggested Charter unless it was a party to an agreement or conspiracy.

Another important change in the Redraft is that the enumerated practices are no longer prima facie harmful and illegal but are merely subject to investigation and then only if the Organization considers them to have harmful effects. It should also be noticed that in the enumeration of the practices which may have harmful effects the word "services" has been deleted with the apparent effect of restricting the scope of the Chapter to matters affecting products or commodities and excluding banking, transportation and the like.

Article 40. Procedure with respect to Complaints and Conferences

This article provides, in some detail, for the procedure to be followed by the Organization in dealing with complaints. It should be noted that in the Redraft complaints may only be submitted by members or with the permission of a member by persons within that member's jurisdiction. Thus the direct right of complaint by other than members is now restricted to cases where the requisite permission is obtained.

This article should be considered together with Article 76 dealing with: Functions of Commission on Business Practices. It is apparently contemplated that much of the work of the Organization as outlined in Article 40 will be carried out by the Commission under Article 76.

The detailed procedure, as set forth, contemplates a complaint and a preliminary consideration of such complaint. Apparently under Article 39, 2 (b), the Organization must make a preliminary determination upon the complaint as to whether or not it considers that the matters contemplated are probably harmful. If so, it must request the affected members to obtain such information as it deems necessary. On the basis of this information it then determines whether further investigation is justified. If it considers that it is justified, it then again calls upon the members to supply additional information, and it may conduct hearings. The Organization is then obligated to make findings, and report these findings to the members. If it finds that the practices have a harmful effect, it may then request the appropriate members to take action to prevent the continuance of the harmful practices and it may recommend remedial measures. The Commission must request all members concerned to report what action they take. Finally it is to prepare and publish a report.

A comparison of this article with its predecessor in the Suggested Charter shows that it has been materially changed. In the prior draft, the Organization and its underlying Commission had power to initiate investigations and take steps and make recommendations upon which the members were obligated "to take action". The Redraft has left the Organization as an investigatory body whose recommendations are merely advisory.

When one considers the time and cost to all concerned of the investigations provided for in this article in the light of experience in litigation under the anti-trust laws, the presumably large expert staff that would be needed to handle the mass of documentation and testimony, coupled with the absence of any provision for definite or concrete results of the investigations, one cannot help but wonder whether the burden which it threatens to those who conduct private enterprise is not out of proportion to any good that may be obtained therefrom. It is suggested that consideration should be given to deleting this article and substituting an article providing for direct negotiations between the interested members under the auspices of the Organization.

Article 41. Studies relating to Restrictive Business Practices

Article 41 authorizes the Organization to conduct studies, either on its own initiative or on request, relating to types of restrictive business practices and conventions, laws and procedures relevant to restrictive business practices, and to request information from members in connection therewith. It is authorized to make relevant recommendations and to arrange conferences when requested by members.

This article, which merely provides for studies and conferences, is hardly susceptible of criticism. However, it may be suggested that the validity of any conclusions which may result will be in direct relation to the degree of objectivity with which such studies are undertaken. The most noticeable change from the Suggested Charter has been that, in the Redraft, the Organization can no longer call conferences on its own initiative but only at the request of the members.

Article 42. Obligations of Members

This article sets forth a series of obligations undertaken by the members as follows:

1. To take all possible steps to insure within its jurisdiction that the practices which have harmful effects are prohibited.
2. To give the fullest consideration to the Organization's findings, requests and recommendations in considering whether to initiate action in accordance with its system of law and economic organization to prevent within its jurisdiction the continuance of such practices.
3. To establish procedures to deal with complaints, conduct investigations, prepare information and reports requested by the Organization.
4. To conduct such investigations as may be necessary and practical to secure information requested by the Organization or to prevent harmful practices.
5. To furnish to the Organization such information as it may request.
6. To report the action taken to implement recommendations of the Organization or to explain when no action is taken.
7. To participate at conferences called by the Organization at the request of another member.

The first obligation enumerated above is perhaps the most important of any contained in the Redraft. Since all enforcement action under the Redraft is to be taken by the members, and since they are not obligated to take action on the recommendations of the Organization, the extent to which they carry out this obligation will largely measure the effectiveness of the plan.

The second obligation has been markedly reduced from its counterpart in the Suggested Charter. The Suggested Charter required the members "to take action". The revised paragraph only requires the members to consider the taking of action.

Both the obligations contained in the first and second paragraphs contain the important provision that the member is only obligated with respect to enterprises or practices "within its jurisdiction". This insertion of a recognition of a jurisdictional limitation is a considerable improvement over the previous Suggested Charter. It would still seem desirable, however, that there should be added a definition of what is meant by this limitation. It may be presumed that, as presently drawn, each nation will decide for itself what falls "within its jurisdiction". Having in mind the likelihood for considerable diversity of interpretation and application of the provisions of the Redraft, a more definitive statement of jurisdictional limitations would still appear to be required.

The other obligations expressed in this article would appear to be appropriate to the precedure provided for in Article 40 and subject to the same questions as have been raised with regard to that article.

It should be noted that paragraph No. 4 of Article 37 of the Suggested Charter has been omitted. The result is to permit members to work out solutions between themselves without reference to the Organization. While it is our view that this Chapter places too much emphasis upon research and studies by the Organization and too little emphasis upon direct negotiations and agreements between the affected members, it nevertheless seems to us that such dealings between members should take place within the framework of the Organization if there is to be any uniformity and consistent policy.

Article 43. Supplementary Enforcement Arrangements

This article provides for plurilateral action to implement "any remedial order originating in a member country".

The effect of such collaboration would, in general, be to afford extraterritorial assistance to domestic orders and decrees. While the idea is attractive, the proposal raises again a serious doubt as to whether the technical questions of jurisdiction have been completely analyzed, or a solution offered. We cannot approve the article as drawn.

Article 44. Continued Effectiveness of Domestic Measures Against Restrictive Business Practices

Article 44 provides that any member may proceed to enforce any national anti-trust statute or decree regardless of any action or failure to act on the part of the Organization. This means that even though the Organization finds a practice to be unobjectionable, any member can still go ahead and take enforcement action with respect to that practice. Such a provision seems completely to lack any concept of mutuality. If the Organization finds a practice to be harmful and makes recommendations with regard to it, each member is at least required to give that finding due consideration and to consider whether to take action with respect to it. It is difficult to see why the members should not be obligated to give similar consideration to a finding by the Organization that a practice is not harmful.

In addition, it would seem that there should be a provision requiring the Organization and other members to take into account and to give due consideration to any provisions of the national law of a member, such as the Webb-Pomerene Act, granting certain exemptions under the domestic anti-trust laws. Unless the provisions of such a national law violate some obligation of the other members, it would appear that it should be given due faith and credit elsewhere. If this is not the case, the Organization or some other member would be in a position to prosecute an enterprise for action specifically permitted by its national law.

Article 45. Exceptions to Provisions of Chapter VI

This article excepts from the "undertakings" of the Chapter, "(a) intergovernmental commodity agreements conforming to the following Chapter VII. "(b) international agreements of a special character permitted under Article 59 of the Charter."

The exceptions (a) and (b) as phrased are necessary, if Chapter VII in its present form and substance is to be retained, and if that is the desired intent. From what we say in our general comments on Chapter VI, and on Chapter VII, it will be plain that we regard the different treatment of private and public cartels, which required these exceptions, as illogical and unconstructive.

* * *

CHAPTER VII. INTERGOVERNMENTAL COMMODITY AGREEMENTS

This Chapter consists of fifteen articles numbered 46 to 60 inclusive. These are arranged in four groups, of which incidentally only three are called "Sections". The "Miscellaneous Provisions" (articles 57-60 inclusive) are of general application and obviously not intended to be included in Section C relating exclusively to Regulatory Agreements. Like other portions of the Charter, this Chapter includes statements of general premises, commitments and procedural matter, but these are separated within the Chapter so that confusion is avoided. In fact, the drafting and arrangement of the Chapter has been much improved over that of the Suggested Charter. The substance has likewise been modified to some extent, without much affecting the general purport of the Chapter.

The general scheme of this Chapter is to recognize the necessity for intergovernmental commodity agreements, but to permit the participation of Member nations in only those arrangements which meet certain defined standards, and to supervise the activities of those Cartels which are so recognized.

The word "commodity" as used in this Chapter means "primary commodity" or "any agricultural product or mineral which enters world trade in substantial volume in a form customarily called primary". In this Chapter a "primary commodity" may also include such commodities where minor processing has been performed in preparation for export and may include a group of primary commodities which are so closely related to one another that they can be conveniently dealt with in a single arrangement.

As we have said in connection with Subsidies and State Trading, the existence of plurilateral commodity pools is a fact, which does not require diplomatic recognition to make it so. It is quite feasible for such pools to exist, and for one or more governments to be parties to them, without, in our opinion, substantially impairing the validity of any portions of the Charter except Chapter VI. Such pools are in essence monopolistic business combinations engaged in by governments, singly or in concert with others. To compromise with this fundamental reality, is merely to invite confusion and inconsistency in our thinking, which will be reflected in the structure and organic instrument of the Trade Organization.

The characteristic incidents of such combinations are restrictive business practices, in this case sanctioned as acts of government itself or its agencies. These incidents have included in our recent experience limitations on production, price fixing and allocation of markets.

Our government now has enormous interests and commitments which are closely related to the arrangements or agreements which make these practices possible It is not, therefore, merely a question of the attitude of certain foreign governments with which our representatives desire to reach a compromise. A comprehensive study of the varied activities of the Department of Agriculture, the Reconstruction Finance Corporation, the Commodity Credit Corporation, and the U. S. Commercial Company would dispose of any such erroneous impression. Moreover, the activities of this government under the head of "strategic stockpiling" have had and now exert a heavy impact upon many commodities. We there ore have some occasion to question the attitude of our own government as well as of others.

International commodity pools are usually urged as emergency measures—like so many of these, they tend to be self-perpetuating long after the emergency has ceased, and in some cases they perpetuate not only themselves but the emergency. We do not regard them as desirable or compatible elements in our postwar program for the expansion of trade and commerce. If countenanced, they must be as transitional measures.

The most plausible case that can be urged for such devices is for the control of agricultural products and of exhaustible natural resources, and, as to these, in their raw or semi-fabricated state. This case has been ably argued in the State Department's Informal Commentary (on page 43). We are pleased to note that the definition of "primary commodities" which has been added in the Redraft clarifies, in this respect, the ambiguity which was present in the Suggested Charter.

Even with explicit limitation to the categories named, we can only accept with the greatest reluctance the general approach taken in the Redraft. We cannot accept the premise that the laws of supply and demand do not operate upon primary commodities, or that artificial factors can be so wisely administered by government as to produce better results over the long haul than those laws operating naturally. The temptation to convert price stabilization into price maintenance is too powerful, even in democracies. "Disequilibriums" are not adjusted as often as they are perpetuated. Carry-overs become "burdensome surpluses" when the corrective of price declines is not applied, and these surpluses require continuation of controls, because they threaten the price structure. Meanwhile the supported price induces high production.

It is clear that many existing international commodity pools could not continue without the participation or indirect support of the United States. We do not believe that it is politically feasible for our participation or support to be long continued, certainly not on the scale presently indicated in some international discussions. There are already indications that our process of disengaging ourselves will be painful, and provoke painful reactions. If that is the result, the sooner our ultimate position is clarified and accepted, the better.

We believe that the United States should oppose intergovernmental commodity agreements. If situations arise in which restrictions upon free competition are suggested or requested, government should not enter into such agreements except as a last resort after allowing the interplay of the competitive processes full opportunity to solve the problem. We also believe that if restrictive practices are to be permitted, the permission should not be limited to the operations of intergovernmental commodity agreements, but provision should also be made to permit agreements between commercial enterprises, of the kind prohibited under Chapter VI, where such agreements may be appropriate to meet the situation.

Governmental commodity agreements of necessity involve a detailed interference by government in all the factors of production, price and distribution of the commodity in question. Such interference involves a mass of detailed judgment and administration and an effect upon the domestic economy which could be greatly reduced if governmentally supervised private agreements were authorized to deal with the particular problem. In fact, the intricacies of the problems in the case of manufactured articles are so great that it is doubtful whether government could handle these by intergovernmental agreement without a complete socialization of the industry in question. This may explain the reason why Chapter VII is limited to "primary commodities."

Some question may naturally arise in the mind of the reader why, if the business community feels so strongly upon the question, the inclusion of this Chapter is approved. The answer is to be found in a realistic appraisal of the existing world situation with regard to commodities, and of the net effect of this portion of the Charter. We do not wish to see this government engaging in wholesale commodity pools, and believe that its definite refusal to do so would make a general recourse to them impossible. There is nevertheless danger that those pools which now exist will attempt to continue, and that others will be formed, irrespective of that attitude. Therefore, we feel that whatever restraint can be exercised upon them through the International Trade Organization will be a net advantage, quite over-balancing any implied sanction implied in the provisions of the Charter.

Referring specifically to our criteria, we do feel that this important matter can to advantage be included within the range of activities of the Organization, that attention to the existing situation is an essential, that a satisfactory area of agreement has already been developed—by concession on our part, to be sure—and that, since it is the operations of governments with which we must deal, the Organization will possess unique competence. In general, the context of the chapter is fairly clear, and is helped by the definitions of otherwise ambiguous terms. As to the validity of the premises on which the chapter is based, it should be clear that we have definite reservations, which we have attempted to state without too much argument in the realm of academic economics, but rather in the light of practical experience.

The application of our criteria thus leads to the conclusion that this chapter is approved for inclusion in the Charter.

Section A. General Considerations

Article 46. General Statement on Difficulties Relating to Primary Commodities

This paragraph is designed to show why primary commodities are different from manufactured goods and why different treatment of them is accordingly justified. The reasons given are that primary commodities are subject to disequilibriums between production and consumption, the accumulation of burdensome stocks and pronounced fluctuations in price. It is difficult to see why these same disequilibriums do not also exist from time to time in the case of manufactured goods. There are differences, one of which has been pointed out above, namely that primary commodities are more easily subject to regulation and present a less complex problem. The differences, however, appear to us to be differences in degree and not in kind. If disequilibriums justify restrictive measures and particularly if a substantial number of the nations of the world believe they do, then it seems to us unrealistic to limit the permission to primary commodities and to intergovernmental agreements.

Subject to this objection, we recognize that commodity arrangements exist and are going to continue to exist as a matter of fact and do not object to this Chapter except to the fact that it is limited to primary commodities and to intergovernmental arrangements.

Article 47. Objectives of Inter-Governmental Commodity Agreements

This article provides that

> "Members agree that inter-governmental commodity arrangements may be employed to achieve the following objectives":

and then goes on to list under six heads, those objectives which are considered legitimate. These are quite varied in content, but certainly in the aggregate, they would seem to justify almost any type of such device in almost any field. Objective (3) is worth quoting: it reads

> "(3) 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."

This may well be a worth-while objective for artificial devices, but until there is some agreement on criteria as to what constitutes "over-expanded industries", we would like to reserve judgment on the validity of this concept, but we are free to suggest that it lacks somewhat in clarity. One of those added at London to those suggested by our representatives, is

"(5) To maintain and develop the natural resources of the world and protect them from unnecessary exhaustion."

In this connection, we might observe that intergovernmental arrangements may well have this effect when they resort to limitations on production, but that this is usually accompanied by some restrictions of "access, on equal terms" to such resources.

In the last analysis, however, we are more interested in what monopolies do than what they propose as their justification for being, and it may not be feasible to attempt a narrower statement of the latter.

Section B. Inter-Governmental Commodity Arrangements in General

Article 48. Special Commodity Studies

This article provides that the Organization shall at the request of an interested Member, appoint a Study Group to study any particular commodity and to make recommendations to the Organization as to any measures that should be taken with regard to it. The Organization is to transmit to the Members the findings. This article appears to make suitable provision to permit the study of problems by only the limited number of nations interested.

Article 49. Commodity Conferences

This article authorizes the Organization to call an intergovernmental Conference to discuss measures to meet such "special difficulties" with regard to a commodity as may exist or be expected to arise, and this Conference may recommend the adoption of an intergovernmental commodity agreement.

These Conferences may be called either on the basis of recommendations of a Study Group or on the basis of an agreement by the Members substantially interested.

The portion of this article relating to an agreement by Members in lieu of recommendations by the Study Group must be read in conjunction with Article 53(1), which provides for the conclusion of regulatory commodity agreements by direct negotiation in the event of unreasonable delay on the part of the Study Group or commodity Conference. The procedure for Conferences and agreements which are initiated by the Members in the absence of recommendations by Study Groups or commodity Conferences, is not clearly defined.

Article 50. Relations with Specialized Agencies

This article authorizes specialized agencies and the Organization to submit to and request of each other special studies.

The foregoing three articles with regard to Conferences and studies do not appear to be subject to objection or criticism, except for the general objection noted with regard to Chapter VI that there appears to be excessive emphasis upon "studies".

Article 51. General Principles of Inter-Governmental Commodity Arrangements

This article sets forth general principles applicable to all commodity agreements and provides that they shall be open on equal terms to any member; that there shall be provision for adequate participation by importing or consuming countries as well as by exporting or producing countries; and provides for weighted voting so that the consuming countries shall have an equal voice with exporting countries. There is also a provision calling for expansion of the consumption of the commodity in question and for full publicity for the arrangement itself and its operation.

These provisions appear to be useful, although the detailed implementation of the provision for an equal balance between producers and consumers is not set forth. The possibilities for disagreement between these two groups would seem to be so substantial that further attention to this provision would appear desirable.

Section C. Inter-Governmental Commodity Agreements Involving the Regulation of Production, Trade or Prices

Article 52. Circumstances Governing Use of Regulatory Agreements

This article provides that the Members agree not to employ regulatory agreements except when (1) there is a burdensome surplus which would not normally be adjusted without undue hardship by the processes of normal market forces, or (2) where there is danger of widespread unemployment which would not be corrected by such forces, or (3) where the Organization finds that, for a com-

modity other than a primary commodity, exceptional circumstances justify such action.

In the draft of this article contained in the Suggested Charter, conditions (1) and (2) provided for investigation and a determination under the auspices of the Organization that one or the other of the jurisdictional requirements existed. This has been omitted from the Redraft. As a consequence, there is now no adequate provision specifying who is to determine whether or not the stipulated conditions exist and there is no specific sanction provided in the event that Members enter into such agreements when the stipulated conditions do not in fact exist. This is a very material relaxation from the provisions in the Suggested Charter. Without adequate provisions covering these points, the article may well prove to be meaningless in practice.

The question may also be raised as to whether stipulation No. 3 above permits in "exceptional circumstances" agreements with respect to any commodity manufactured or otherwise. Read in connection with Article 60, which defines a primary commodity as including commodities as to which minor processing has taken place, the conclusion would seem to follow that this paragraph would open the door to the application of these agreements to an expanded field. It seems doubtful that so wide a purpose could be intended by so minor a paragraph. If not, the specific intention of this section should be made clearer.

Article 53. Additional Principles Governing Regulatory Agreements

This article provides that the Members agree not to enter into any regulatory agreement unless it has been recommended by a Conference. The strength of this provision is, however, considerably diluted by the next sentence which permits the Members to proceed without a Conference recommendation if there has been unreasonable delay in the proceedings of the Study Group or of the Conference on the commodity. This latter provision is new in the Redraft and should be read in conjunction with the similarly new provision of Article 49 noted above.

The remaining provisions of Article 53 are designed to prevent discriminatory use of such agreements against non-participating Members or unreasonable curtailing of supplies. As such, these provisions seem unobjectionable.

Article 54. Administration of Regulatory Agreements

This article provides that each regulatory agreement shall provide for a Commodity Council to be its governing body. The powers of such a Council are not specified except that it is authorized to adopt rules of procedure and regulations regarding its activities, subject to the approval of the Organization and it is required to make reports to the Organization.

It is provided that there shall be weighted voting to give equal voice to consumers and producers as provided in Article 51. There is also a provision for a non-voting chairman to be nominated by the Organization. The provision for equal voting powers between basically antagonistic groups plus the possibility of an even number of members suggests that these Councils may readily be subject to deadlock in which case it would seem that the chairman should have the power to vote. Moreover, the provision for weighted voting seems to assume that most Members will have clearly defined producer or consumer interests. This would appear to be an over-simplification. The proviso that "border line" countries shall have an "appropriate voice" leaves many crucial questions open for controversy.

The general purpose—to prevent these agreements from becoming mere instrumentalities of producer interests—seems sound. But it is doubtful whether the problem of finding a satisfactory formula for the achievement of that purpose has been solved. Rather it appears to have been deferred for negotiation in any particular case.

Article 55. Provision for Initial Terms, Review and Renewal of Regulatory Agreements

This article provides that regulatory agreements shall be in effect for not more than five years and that their renewal shall be subject to the general principles stated in this Chapter.

There are two noteworthy changes in the Redraft of this article. In the Suggested Charter, it was provided that termination or effective revision of an agreement would be undertaken after the five year period if the operation of the agreement had failed substantially to conform to the general principles of this Chapter, or particularly if substantial progress had not been made toward a solution of the underlying commodity problem. In the present Redraft, the provision for "substantial progress" has been eliminated.

The other change provides for a periodic review of the agreement "at intervals no greater than three years," and a report on the agreement in the light of the principles set forth in this Chapter. These changes justify, as do other changes in the wording in this Chapter, the conclusion that such commodity agreements can no longer be regarded as transitional measures. They are accepted as much more permanent instruments of international economic policy.

Article 56. Settlement of Disputes

This article provides for a procedure in the event that any question or difference concerning interretation of the provisions of regulatory agreements should arise. This provision is new in the Redraft and would not seem to be subject to objection, although it raises again the issue (as yet undecided) of the method of voting within the Organization.

Section D. Miscellaneous Provisions

Article 57. Obligations of Members Regarding Existing and Proposed Commodity Arrangements

This article states an undertaking on the part of the Members to transmit to the Organization the full text of any intergovernmental commodity arrangement in which they are participating at the time of the coming into force of their obligations under this Charter, and an undertaking to transmit appropriate information regarding any negotiations, looking to the conclusion of intergovernmental commodity arrangements, in which they are participating at that time. They further agree to abide by the decisions made by the Organization regarding their continued participation in such existing agreements or existing negotiations.

This article, while simply phrased, seems to be adequate for the purposes intended.

Article 58. General Undertaking by Members

This article is an undertaking by Members who are not parties to a particular commodity agreement to give the most favorable possible consideration to any recommendations by the Commodity Council for expanding the consumption of the commodity in question. If any substantial progress is to be made in the elimination of the basic disequilibriums which create a need for intergovernmental commodity agreements, this progress can only be achieved by the cooperative effort of all the Member countries. Therefore, there can be no objection to provisions of this article, although mutuality would seem to require that equal consideration should also be given to any objections as to price and terms of sale by the Member to whom the recommendation is made.

Article 59. Exceptions to Provisions Relating to Inter-Governmental Commodity Arrangements

This article comprises two paragraphs, the first listing exceptions to the provisions of this Chapter related to the nature and intent of the stipulations of the several agreements, and the second by categories of commodities.

Paragraph 1 excepts arrangements relating solely to distribution of commodities in short supply, or arrangements which relate to public morals, or the protection of human, animal or plant life or health. It is interesting to note that agreements for the conservation of exhaustible natural resources, which were excluded from the scope of this Chapter in the Suggested Charter, are now included within its purview.

The exceptions under paragraph 1 a.e subject to the qualification that they may not be used to accomplish results inconsistent with the objectives of Chapter VI or Chapter VII. There is, in addition, the explicit statement that if the regulation of production, trade or prices is involved, such arrangments must either be in the form of a multilateral convention to which the majority of nations affected are parties, or it must be operated under the Organization.

The exceptions under paragraph 2 are positive and unconditional and relate to fissionable materials, military goods and supplies and, in time of war, to "essential security interests."

This article is entirely acceptable.

Article 60. Definitions

This article, which defines a "primary commodity", and the terms "Member", "non-Member", "intergovernmental commodity arrangement" and "regulatory agreement", is a helpful addition to this Chapter.

CHAPTER VIII. ORGANIZATION

This Chapter is the second longest in the Charter (pages 40 to 54 inclusive of the Reprint) and comprises twenty-nine articles grouped in seven sections. Much of its content is more or less conventional and requires no detailed analysis or comment, and so may be taken as appropriate for the formal constitution and operation of the Organization. Moreover, it is not at all certain the present outlines of the Organization will be final, if the activities of the agency are expanded or contracted to a substantial extent. This thought is reflected in the introductory remarks of the Report on this subject (Chapter VI, page 22), as follows:

> "It will be appreciated that this part of the work of the Preparatory Committee depended very largely on the outcome of other work which was being done simultaneously. For this reason it was impossible to carry many matters concerning administration and organization to an advanced stage of discussion."

On this account, we do not attach too much importance to the fact that the provisions of the Suggested Charter have been tentatively adopted and constitute the bulk of the administrative stipulations, largely as previously written. A great deal of attention was given to the problem of voting, and per capita and weighted systems were discussed, with several formulae. The composition and tenure of the governing bodies was also the occasion of much interchange of views, without definitive agreement. It is to be expected that most of these important points will be brought up for more explicit disposition at the Second Meeting of the Preparatory Committee in April, at Geneva. We are therefore inclined to confine our comments to those features of the Organization set-up which seem to us to have the most significance, as either directly affecting substantive matters, or providing procedures for the adjustment of controversies which may arise.

We may repeat here our suggestion that this Chapter should include the related subjects of Membership and possibly also Purposes, now separate chapters.

Section A. Functions and Structure of the Organization

This section comprises only two articles.

Article 61. Functions of the Organization

The functions of the Organization are identified and defined under seven heads, which seem to involve some duplications and are not mutually exclusive. They may, for our purposes, be grouped under three categories; first, the collection and dissemination of information and provision of technical assistance (1 and 2), second, consultation, recommendations and reports to Members and to the United Nations and its organs (paragraphs 3, 5, 6 and 7), and third, review and determinations regarding disputes (paragraph 4). Paragraph 7 concludes with the "basket clause"

> "to perform any other functions appropriate to the purposes of the Organization."

As the "purposes" are now phrased, this last general clause does not constitute any large grant of power. Probably the most definite powers derived from this article are those of making determinations on which the application of sanctions may be based, or rulings from which "justiciable issues" may arise and be taken to the International Court of Justice.

We believe that this article could be substantially improved by redrafting and rearrangement, but that its content is not objectionable.

Article 62. Structure of the Organization

This article lists the organs of the Organization: A "Conference", an Executive Board, a Secretariat, and "Commissions as established under Article 72", but these not by name, as previously.

Section B. The Conference

This section comprises four articles, 63 to 66 inclusive. The first three (63-65 inclusive) constitute the Conference as composed of representatives, one for each member, and each (tentatively only) having one vote, with a majority controlling in most cases, and governed by its own rules of procedure.

Article 66. Powers and Duties

This article makes the Conference the policy making body of the Organization, and also provides for delegation of powers not excepted, to the Executive Board.

Among the important prerogatives of the Conference are

(2) the power to waive, by a two-thirds vote, conventional obligations of members, under Chapter V of the Charter (General Commercial Policy)

(6) and (7) the duty to make "determinations" under Article 30 (concerning "burdensome world surpluses" or subsidies), Article 52, 3 (concerning burdensome surpluses or widespread unemployment), Article 26, 3, (d) (concerning restrictions to correct disequilibrium in trade) Article 34, 2 (the emergency escape clause) and Article 35 (complaints of nullification).

These references include all the cases in which specific sanctions are dependent upon such determinations, and regular "procedures" are to be established for making them. Irrespective of the merits of the sanctions as such, it would appear that reference to the full Conference is the appropriate method of dealing with such issues.

At the London Conference, the function of election of the Executive Board which as then written reposed in the Conference, was deleted from this article, and referred to Article 68, of which there are several alternatives.

One important additional function was inserted, that of developing, and with the sanction of a two-thirds vote, recommending to the members, "conventions and agreements with respect to any matter within the competence of the Organization." It is felt that this is a very constructive addition, if it is to be availed of for the development of standard multilateral conventions on those matters of particular interest to the expansion of direct investments, such as are ordinarily dealt with in treaties of amity and commerce, fiscal treaties, and conventions on intellectual and industrial property.

Section C. Interim Tariff Committee

Article 67. Interim Tariff Committee

This article is of transitory character, and provides for recognition of a committee to be composed of those members which may have adhered to a proposed agreement on reduction of tariffs, if that agreement is reached in advance of the constitution of the Charter. This article should be read in conjunction with Article 88, paragraph 3.

We doubt the wisdom of incorporating this concept in the Charter. Its effect is to separate the matter of tariffs from other considerations. In this event, the principal element in our bargaining position is thrown out of relation to the various other concessions in which we are interested as a nation. Such a development would be most unconstructive.

We recommend that the project of a separate conference on tariffs be carefully reviewed in this light, and definitely subordinated to a comprehensive agreement, so that tariff concessions by this country will not be granted simply for reciprocal tariff concessions, but for general adherence to the Charter and Organization.

This suggests the omission of this article.

Section D. The Executive Board

This section is to comprise four articles, numbered 68 to 71 inclusive. It is still somewhat indeterminate, since we have from the London Conference four alternative drafts of the first Article 68, constituting this organ. The matter of voting is also still in the air, although Article 69 as reported provides for each member having one vote. The first alternative of Article 68 is taken from the Suggested Charter, and provides for a Board of fifteen members elected by the Conference, with staggered terms. Taken with the following articles, it would vote by majority, and have its own rules of procedure. In general we prefer this simple alternative to the others, which are more elaborate without, it would seem, accomplishing any real differences in results.

In Article 71, relating to its Powers and Duties, we note the following

> "It shall provide adequate machinery to review the work of the Organization as it relates to industrialization and general economic development."

This is an unusual particularization, and, read in connection with the omission to set up a Commission on this phase of the problem, raises some doubt as to precise and constructive treatment of the subject matter. It would seem to be

more consistent and practical to refer this subject to an appropriate Commission, and leave the duties of the Board generalized.

Section E. The Commissions

This section comprises six articles numbered 72 to 77 inclusive. The first three, 72 to 74, are of general application to all of the Commissions, and follow the Suggested Charter except in details of phraseology. It was obviously the general idea that these Commissions would be technically competent, and would advise the Board in their several spheres of competence. Section E establishes for the present three such commissions, one on Commercial Policy, one on Business Practices, and a Commodity Commission, but others may be established if the Organization is assigned power, notably one on "Expansion of Production, Industrialization and Employment". Some question arose during the London discussions whether these Commissions should be called upon to "undertake responsibilities of a semi-judicial nature", a question which we believe should be answered quite definitely in the negative. Although this question seems most relevant to the activities of the Commission on Business Practices, Article 76 dealing with its functions was tentatively approved, whereas Articles 75 and 77 dealing with the functions of the other two commissions, were reserved for further consideration by the Drafting Committee. This somewhat inconsistent result rather highlights the former Commission on Business Practices.

Article 75. Functions of Commission on Commercial Policy

This article is as written in the Suggested Charter, except for cross references. Other than purely advisory functions, this Commission has only one specified function, that of recommending to the Board programs which may include "cooperative projects of a technical nature in the field of commercial policy." We may assume that this does not involve going outside its generally advisory functions, but the wording does seem a bit inclusive and suggestive.

Article 76. Functions of the Commission on Business Practices

When we come to this article, we note an important departure from the basis concept of purely advisory functions, which we consider ill-advised. In addition to its technical and advisory functions, we find this Commission authorized, under paragraph 1, to:

> "(b) Receive and consider written complaints concerning restrictive business practices in international trade;" * * *
>
> * * * * * * *
>
> "(e) Request further data from Members and conduct or arrange for hearings;"
>
> "(f) Report to the Executive Board its findings and its recommendations of remedial measures;"

These are clearly judicial or quasi-judicial functions and powers of a character much different from the generality of advisory powers granted Commissions under this Charter or under that of the United Nations itself. Even if we were in accord with the attempted codification of business practices contained in Chapter VI, or with the inclusion of that Chapter in the Charter of the Trade Organization, there would be a serious doubt as to the propriety of delegating such powers with their judicial implications, to a Commission to be constituted as these are.

In passing we note with approval the omission from this article of the function assigned to the Commission on Business Practices by paragraph 5 of Article 65 of the Suggested Charter, which read:

> "To facilitate intergovernmental arrangements for the international interchange, on a non-discriminatory basis, of technological information not involving national security."

Even if our recommendation regarding Chapter VI is not accepted in its plain meaning, we feel that this whole article requires extensive study and revision on a much more limited basis, with due regard to questions of jurisdictional concepts.

Article 77. Functions of Commodity Commission

In regard to this article, if there are to be international commodity agreements, there should be a corresponding commission, and its functions should be substantially those defined in this article.

in our opinion, the desirability of having such a Commission will depend in essence, upon its bias towards or away from such artificial devices. If it is so inclined, it can discover the existence of a burdensome surplus in cases in which, in the absence of such a Commission, that discovery would not be made. However, so long as such intergovernmental cartels do exist, their supervision is an appropriate function of the International Trade Organization, and it is appropriate that it be assigned to a standing Commission.

Section F. The Secretariat

This section comprises three articles, 78 to 80 inclusive. None of these require comment, except that the Secretariat is obviously to be set up as a permanently organized professional staff, the senior members of which are entitled to participate in the proceedings of the various Organs, but are not entitled to vote. These provisions parallel those of the United Nations Charter.

Section G. Miscellaneous Provisions

This section comprises nine articles, 81 to 89 inclusive. Only a few of these are of definite interest as affecting substantive matters. It is provided that the Organization shall be a "specialized agency", as defined in the Charter of the United Nations, and its relations with that body and other agencies are to be regulated by consultation and agreement (Article 81).

Article 85. Amendments to Charter

This article provides in effect that amendments of any character may be adopted by the Conference by an affirmative vote of two-thirds of its Members. Such amendments come into effect upon acceptance by that fraction as to those accepting it, and as to the others only upon their explicit acceptance. Those members who do not accept an amendment so adopted, may be expelled from the Organization, or may voluntarily withdraw, by giving six months' notice, but free of the prescriptive initial period of three years provided by Article 89 in the generality of cases. There is thus no question of any member being bound by an amendment which it regards as vicious or unduly prejudicial to its own interest, but, obviously if two-thirds of the members gang up, they may force out one or more members by the amendment process.

The article has been drawn with great care, and this possibility should be regarded as only an inherent hazard in any attempt at international collaboration of a formal nature.

Article 86. Interpretation and Settlement of Disputes

This article is of great importance to this country particularly. It provides in general that any question or difference in interpretation of the Charter or arising out of its operation shall be referred to the Executive Board, and upon request of a Member affected by its ruling, be referred to the Conference. It is also provided that any "justiciable issue" may be submitted by any party to the International Court of Justice, and the members accept the jurisdiction of the Court in respect of any such dispute. However, this right of appeal is qualified by the phrase

"in accordance with such procedures as the Conference shall establish".

It is a matter of regret that this right of appeal is qualified in any way, although the intent may not have been to insert the matter by way of limitation. The note in the Report is as follows:

> "The preparatory Committee eventually agreed that the right of appeal should be subject to procedures established by the Conference, and that in determining these procedures consideration should be given to incorporating as a pre-requisite an affirmative vote of at least one-third of the members of the Conference."

The occasion of this qualification was stated to be the fear of frivolous appeals, but we regard this consideration as of infinitely less import than the preservation of the undiluted right of a day in court for any aggrieved member. Such a right of appeal should not in any case be subject to the veto of the agency against whose determination or decision the appeal would lie. In fact, it would seem to be the prerogative of the Court, rather than the Organization, to protect itself against frivolous and insincere proceedings, merely adopted for the purpose of delay.

Article 88. Entry Into Force

The Charter is to become effective sixty days after twenty acceptances have been deposited with the Secretary-General of the United Nations.

However, if a delay occurs beyond a deadline still to be set, it is provided that any of the governments which have entered into a projected Tariff Agreement, may then bring the Charter into force among themselves "in accordance with arrangements which they may agree upon." The precise operation of this stipulation is not very clear; but if such "arrangements" should include canceling out any extensive parts of the Charter, the result would seem to be unsatisfactory. In fact, unless the Charter attracts at least twenty adherents, it can hardly be said to promise substantial progress toward solution of our international commercial problems by collaboration.

Article 89. Withdrawal and Termination

The Charter itself may be terminated at any time by agreement of three-fourths of the members.

Any member may, after three years from the entry into force of the Charter, give notice of withdrawal from the Organization, but the withdrawal only takes effect six months thereafter—so under this article, no member's withdrawal can become effective for three years next after the Charter becomes effective. However, in derogation of this, a member who is the subject of certain sanctions (e. g. under Article 24) may in such a case, withdraw upon only sixty days' notice, as these several sections now read. This inconsistency may be relieved, and we believe it should be, by revising those articles.

Whether the absolute requirement of retention of membership is wise, is open to serious question—but it is certainly unwise to grant to recalcitrant members greater freedom in this respect, than is accorded those in good standing.

We have suggested, in another connection, that the Organization should have the right to suspend for cause, and particularly refusal to observe any important stipulation of the Charter, to suspend, and in the case of continued or flagrant disregard of obligations, to expel, such a recalcitrant members, and this should be with the understanding that such suspension or expulsion would not in any degree relieve the offending member of its obligations incurred while still retaining its membership. This should be implemented by the power to place such additional obligations upon the offending member in case of readmission, as would provide reasonable assurance of remedy for other members injured by its default or violation of duty.

Whether such provisions should be inserted in this article, or in some appropriate article by themselves, is not too important; but we believe they would add substantially to the prestige of the Organization, and would entirely dispose of the temptation to resort to specific sanctions such as are now provided for in Chapter V in several places.

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Appendix

Background of the Proposed Charter

An evaluation of the United States "Proposals for Expansion of World Trade and Employment" released in November, 1945 and of the proposed Charter, requires first a survey of their background of events, and a careful identification of the framework into which the proposed Charter is intended to fit. Approval or criticism, except in the light of these, may be either misleading or unfair.

The principal event, to which we naturally turn, is the success of the United Nations in winning the war against totalitarian Germany and Japan. However, the necessity for international collaboration in economic matters was obvious during the war, and the bulk of that collaboration depended on governments and war agencies utilizing government resources almost exclusively in the foreign field, with corresponding restrictions on private enterprise. It is to be expected that, in the transitional period from war to peace, the slow recuperation of commercial enterprise will offer some plausible ground for the substitution of intergovernmental arrangements for the normal and natural processes of trade. It is, therefore, most essential that the functions of the "Charter" be placed, and kept, in true perspective. If it is to serve its purpose, it must, at the same time, permit the acceleration of the recuperation of trade in the transitional period, and also assure, so far as is possible, the removal or mitigation of factors of political origin which tend to create or perpetuate artificial patterns in the economic world. In this sense, the function of the Charter is rather that of a police code or ordinance, with the accent upon prohibitions, and its operation is necessarily restrictive. We must not lose sight of the essential fact, that in general, commercial and industrial activity are created and expanded, not by government, but by the governed. We find little in the Charter itself which is inconsistent with this view,

but there are implications, (especially in Chapter III dealing with Employment, and in the Articles on State Trading (31) and State Monopolies (32)) that accepted distinctions between governmental functions and private enterprise have been confused and compromised to an extent we regard as dangerous.

Therefore, our first premise is that the Charter should be judged realistically as a codification of international ordinances of a largely negative character, rather than a comprehensive program for the development of international commerce by the active participation of governments. It is likewise believed that the reduction or elimination of barriers to trade imposed by government will, of itself, be constructive, and that equality of treatment (or even more assurances of that equality), if implemented by intergovernmental commitments of a definite and binding nature, will promote trade and permit expansion of enterprise, more rapidly probably than any other factor which our government can introduce at this time. But, at best, trade and enterprise are not to be legislated.

The manner in which such intergovernmental commitments are taken and given, is important. For our purposes, it seems simpler to regard the Charter as a multilateral convention among the members of the International Trade Organization. So regarded, it must, under our Constitution, be presented to the Senate and that body must advise and consent by a two-thirds vote, before it becomes binding upon the United States. We have so far, no statement from our Department of State that this procedure is contemplated.

The United Nations Charter itself was transmitted to the Senate two days after its signature by President Truman and it received the "advice and consent" of the Senate on July 28th, 1945 by a vote of 89 to 2. Our participation in the Bretton Woods plan, however, is based upon a simple enabling act (Public Law 171, 79th Cong., July 31st, 1945) as is our membership in the United Nations Educational, Scientific & Cultural Organization (Public Law 565, 79th Cong., July 30, 1946). A few days earlier, the convention on International Civil Aviation was acted upon favorably as a Treaty, and was so ratified. UNRRA was enacted as an appropriation measure. (Public Law 267, 78th Cong., 2nd Session, March 28, 1944).

We are unable to draw reliable conclusions from this series of differing legislative treatments.

The attitude taken by this Administration in its participation in activities of the United Nations, and of such "specialized agencies" as have so far been set up, is that the Executive Agreement technique suffices.

While fully cognizant of the internal political attractiveness of this technique, so as to relieve our Department of State and our foreign service of the negotiation history. It is our considered opinion that the executive agreement is inferior to a treaty as a method of formalizing our adherence to the International Trade Organization, and to the proposed Charter.

Whether or not we regard the proposed Charter as essentially a multilateral convention, it will, if generally adopted and honestly observed, operate in much the same way as one. Hence, it is desirable to clarify its relationship to other engagements of this nation, particularly those entered into bilaterally. It is even more essential to determine to what degree the Charter can be expected to implement what we regard as a properly comprehensive foreign economic policy, so as to relieve our Department of State and our foreign service of the negotiation and conclusion of diplomatic arrangements in more familiar forms. The answer depends naturally upon the content of the Charter, the validity of the concepts expressed, and the number and importance of adherent nations which it may attract and retain. But we may properly conclude, from an estimate of the situation at this time, that the promotion of the Charter in its present form, however constructive that action may be, is in no sense an acceptable substitute for the more traditional diplomatic measures, several of which have been consistently advocated by the Council. This conclusion is related primarily to the limited content of the Charter, with which we deal at length in the body of this report. It is also based upon the somewhat vague and inconclusive wording of certain portions, which are also commented upon specifically. We are hardly justified in hoping that these deficiencies can be easily corrected, when so many and varying national interests and predilections have to be reconciled. In fact, it is indicated that the Charter is frankly intended as a "least common denominator" for multilateral discussion, rather than an attempt at a comprehensive definition of our foreign economic policy.

Foreign trade and commerce does not adjust itself to compartments. Activities and interests in the foreign field are usually composite, and interrelated. But we have certain broad areas in which our diplomatic efforts can be classified, and to which we must refer to put a constructive point to our argument.

In passing, we may also add that much can be done to encourage international trade through simple unilateral action, by any nation which is liberal enough to forego the assurance, through diplomatic action, of reciprocal advantages. In fact, the consistently liberal attitude of many important nations in certain fields has doubtless been responsible for the fact that formal diplomatic engagements have not been sought. Our Bill of Rights, for example, is available to non-enemy aliens as well as to our own citizens. But the drawback of relying upon unilateral action is that it is subject, of course, to unilateral reversal or modification, dependent upon internal political motives and development.

For our purposes, the comparison is properly between the Charter and other types of diplomatic action, with particular reference to bilateral agreements. We refer to these: (1) Treaties of Amity and Commerce (and Navigation); (2) Treaties on Fiscal Matters; (3) Conventions on Industrial Property; and (4) the Reciprocal Trade Agreements. Of these, only that on Industrial Property has attained the status of an International Convention so as to have automatic multilateral effect. The most-favored-nation clause in the Hull Agreements gives them a limited multilateral effect, and there are to be sure, a few such commitments outstanding of more general application.

TREATIES OF AMITY AND COMMERCE

The scope of our traditional Treaties of Amity and Commerce is quite broad. They cover usually rights of "merchants" to travel and sojourn, to engage in business, to own and use property, and to be secure in their persons and property against unreasonable search and seizure. Many of these stipulations, although phrased a century ago, are valid and suggestive expressions of those concepts of fair treatment which are today essential to the expansion of enterprise in the foreign field, to the extent that it may prove dependent upon international investment.

In general, the matters with which such treaties deal, are not dealt with in the Charter at all, or only by inference, and the definitive assurances they contain are not, apparently, to be asked for in the Charter. We accordingly adhere to the position of the Council, repeatedly stated, that the negotiation and conclusion of such treaties of Amity and Commerce with individual foreign nations is of the utmost importance as an implementation of our foreign economic policy. We note with wholehearted satisfaction the recent announcement of such a treaty with China as of November 4, 1946. The immediate and tangible benefits that can be anticipated from the conclusion of such general commercial treaties with friendly nations are sufficient to justify our definite interest in this type of diplomatic effort.

As to any potential conflict between the concepts usual to such treaties, and those enunciated in the Charter, this can be largely discounted. In fact, until the Charter, or the International Trade Organization approaches some precise definition or implementation of the broad concepts adopted by the Economic and Social Council (see page 137), no such conflict can develop. If, however, the fear is present, all that is necessary is for proper liaison to be established during the negotiation of the bilateral treaties. In any event, copies of such treaties will be filed with the Secretariat of the United Nations in due course, and their content may be reviewed and adjustments recommended to the signatory parties, in cases where any substantial departures are noted, from what is generally approved. In this way, potential conflicts may be resolved, and at the same time, we may expect increasing competence of the participants in the deliberations of the International Trade Organization to deal with the complex aspects of international trade, on a realistic diplomatic level.

In short, the job is to secure the maximum possible acceptance of sound concepts, and definitive commitments to implement them. The multilateral approach is expected to produce results not earlier than 1948. We believe that bilateral commercial treaties can be, and should be negotiated and concluded with as many nations as are agreeable, substantially earlier than 1948. Our existing structure of commercial treaties is badly out of repair; the needed repairs and extensions should be made in it, irrespective of when the new structure of the International Trade Organization is ready for occupancy. Our commercial interests in many nations today need a diplomatic roof over their heads.

The areas to which particular attention should be given are those in which American direct investments are already considerable, and those whose economies could absorb such investments to mutual advantage.

As to the subject of Transport, we are aware that it has received separate consideration in the United Nations set-up. It is a subject intimately interrelated

with trade generally, and has traditionally been dealt with by stipulations which, in many cases, made up a considerable part of our earlier trade treaties. However, the progress made by P. I. C. A. O. in dealing with its problems has been relatively more rapid than that made by other commissions or specialized agencies. It is our impression that the American shipping and air transport industry has been agreeable to such separate treatment. At the same time, they have participated in, and heartily endorse, the Council's efforts to promote such bilateral agreements as are possible of negotiation, with stipulations providing assurance of equitable treatment of American shipping. Thus the situation is generally parallel to that of other interests.

TREATIES ON FISCAL MATTERS

With reference to fiscal matters, there is little in the Proposals or the Charter. This is again possibly due to the existence of a separate Fiscal Commission, and the resultant feeling that these are not within the area of competence of the International Trade Organization. However correct or convenient this may be from the United Nations organization approach, the trader who is exposed to the heavy impact of current taxation can hardly regard fiscal matters as possible of separate consideration, or exclusion from a discussion of trade policy. The most tender concern with taxes arises, of course, among those enterprises which are engaged in business in foreign jurisdictions, or contemplate expansion in the form of direct investments, or equity participation in foreign enterprise, notably agricultural or extractive ventures. But the portfolio investor must also be considered, as must the banker, underwriter, and patent, copyright or film licensor.

The Tax Committee of the Council has been most persistent, and we believe constructive, in stimulating interest in tax conventions on a bilateral basis. Due to the complexities of our own and foreign fiscal legislation and administration, relief and protection by bilateral conventions is peculiarly appropriate to these matters. This country has such treaties in effect with only four nations, (France, Canada, Sweden and the United Kingdom) although the latter may be extended by agreement to the other Dominions. Several more are in an advanced stage of negotiations. These treaties are fairly uniform, and in general, could form a pattern for multilateral conventions. In fact, they are derived to some extent from earlier contributions to the Fiscal Committee of the League of Nations, under whose auspices a great deal of technical collaboration of a most constructive character was developed.

The current activities of the State Department and our Treasury give clear indication that the implementation of this phase of foreign economic policy is not being neglected. Although inevitably interrupted by the War, the steady work on these treaties has produced real results, and more are to be anticipated in the near future. In fact, we feel that this important program because of its highly technical character, has not received the appreciation to which it is entitled. We can assume for the purposes of this discussion, that efforts to conclude bilateral agreements on tax matters will not be adversely affected by whatever attention is given to such matters in the United Nations Organization.

To revert to the Charter itself, we believe that irrespective of what specific and detailed program regarding taxes may be developed in the Fiscal Commission, the Charter should at least include a provision assuring equitable treatment of foreign enterprises. The usual criterion is "national" treatment; that is, in matters of internal taxation, treatment not less favorable than that accorded by the country in question to its own nationals under like circumstances. Such treatment is a reasonable expectation in the case of countries desiring to import capital and enterprise, and if accorded, the effect is primarily to reduce the cost to the importer. In this sense, discriminatory taxes upon foreign ventures and capital or on the return from them, tend to operate much as does a tariff upon physical imports. For the more detailed development of any multilateral conventions on fiscal matters, it is possibly more realistic to look to the Fiscal Commission of the United Nations Economic and Social Council, especially since that group includes several well known participants in the earlier work of the League of Nations.

CONVENTION ON INDUSTRIAL PROPERTY

With reference to Industrial Property, this is intended to include generally the intangibles of trade, and specifically Good-will, Patents, Trade Secrets, Copy-

rights, Trade Marks and Trade Names. The protection of industrial property of this character is a matter of primary concern to international enterprise, whether its foreign interest is limited to marketing a trademarked product abroad, or whether at the other extreme, its operations involve the projection of production know how into full-scale manufacture in the foreign markets. In most countries of any industrial consequence, statutory protection of such property is provided, and unfair simulation of names and products is prohibited or penalized. In most cases (as in the United States) the benefits of such unilateral action are freely accorded to aliens. We believe that in any industrial society founded upon free private enterprise, such a system is a prerequisite to optimum development of techniques of production and efficiency of distribution along competitive lines. The encouragement of invention is the motive of the patent system, and we are satisfied that it has justified itself. The integrity of trade names and trademarks is an essential to intelligent customer selection, at least of proprietary articles. And, certainly, the fairness of adequate compensation to author and publisher, or composer and producer of literary and artistic matter is conceded, and this is not assured unless remedies against piracy are provided.

In addition to such unilateral action, industrial property has long enjoyed the protection afforded by the International Convention. This multilateral agreement was originally entered into as the "Convention of the Union of Paris, March 20, 1883, for the Protection of Industrial Property" and the United States was one of the original signatories. This nation has (with the possible exception of its treatment of enemy patents and other intangibles) adhered to the stipulations and concepts of this arrangement and its successor conventions over the years, and it would be difficult to overestimate the benefits which have accrued to American enterprise from the reciprocal advantages almost universally accorded. Of necessity, countries which have no patent system cannot afford the protection intended by the Convention, and certain countries which cherish ambitions to become industrialized should consider this point.

It is difficult to explain the almost complete omission of any positive reference to this important factor in international trade, in the Proposals and the Charter. Possibly it is due to the fact that, with this Convention in force and accorded scrupulous observance by most nations, the necessity for affirmative action was not apparent. From our viewpoint, the Convention for the Protection of Industrial Property is one of the most perfect examples of a multilateral convention affecting economic matters, but of a highly technical nature. The result was accomplished by the collaborative efforts of competent technical authorities, with wholehearted diplomatic encouragement, along traditional lines. We believe that this Convention has demonstrated its validity and vitality by successive renewals over the past sixty years, and the adherence of most civilized countries. Therefore, we do not feel that the Convention is particularly in need of endorsement by the United Nations. On the contrary, the International Trade Organization should, in its own interest, record its interest in and support of such definite and positive collaboration in the field of international economics. The attitude taken by our Government is quite different from this. The "protection of patents, trademarks and copyrights" is simply listed as a permitted "exception" to the general rules prescribed under Chapter V (Article 37 g).

It is probably incorrect to assume that the existence of the International Convention was unknown to, or ignored by the authors of the Proposals. It is more likely that it was regarded as merely a useful instrument of cartelization, and hence, the positive references to industrial property are found under the heading of "Restrictive Business Practices," which are defined in the Proposals to include

> "suppressing technology and invention" and "excluding their rivals from particular fields." (Pages 4 and 19.)

Most patent counsel would agree that the exploitation of an invention might well depend upon the exclusion of commercial rivals from that particular field; if the patent system has resulted in "suppressing technology or invention", it has to that extent been diverted from its basic purpose, and specific remedial action is in order. When we come to the Revised Charter, we find this thought expanded, in defining restraints of competition, to include practices (Article 39, 3)

> "e. suppressing 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, or to products or conditions of production, use or sale which are not the immediate subjects, of the authorized grant."

Further on, in Article 41, we find

> "The Organization shall be authorized to:
>
> "(a) *Conduct studies*, either on its own initiative or at the request of any Member, or the United States or 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 such as those *concerning* incorporation, company registration, investments, securities, prices, markets, *fair trade practices, trade marks, copyrights, patents* and the exchange and development of technology, insofar as they are relevant to restrictive business practices, and to *request information* from Members *in connection with such studies;*
>
> "(b) Make recommendations to Members concerning such conventions, laws and procedures as are relevant to their obligations under this Charter."

These somewhat obscure references to the subject matter of the International Convention on Industrial Property, and to it, may not, to be sure, have originated within the State Department, but for our purposes, they have its sponsorship. To our view, they evidence an incomplete and biased approach to a subject of much larger importance than that to which it has been subordinated. The net result is, that except as inferred above, no implementation has been attempted in the Charter, of the protection of the rights of individuals and enterprises to their intellectual property or intangibles. Nor has any attempt been made to adopt the well-established concepts in this field that most nations have accepted and observed during the most prolific period of the industrial revolution. On the contrary, the attitude of indictment of an established universal system, for the errors of the few, (a domestic phenomenon with which we are familiar) has been thrown into the diplomatic field, where it may well contribute only confusion and controversy. We cannot but take issue with this attitude. It seems not only unfortunate, but highly unrealistic in promoting the interests of the most highly industrialized nation in the world, or in encouraging the diffusion abroad of such techniques as we possess.

We are convinced that the consistent, universal recognition and protection of private intellectual property of all kinds is a prerequisite to the optimum expansion and diffusion of industrial and cultural techniques; and that this principle should be affirmatively implemented by this government. The existence of such abuses as are recited in the Charter may be the proper subject for specific corrective action, as may be agreed upon among the governments, but no such action should be proposed as will tend substantially to impair or diminish international recognition and respect of private intangible property. The recommendations of this government should be reoriented to conform with its continued adherence to existing international conventions for the protection of industrial property and copyrights.

RECIPROCAL TRADE AGREEMENTS

To deal with the matter of Reciprocal Trade Agreements intelligently, especially to develop their correct relationship to the suggested Charter, it is first necessary to define their purpose, and their character. The primary purpose of the policy (popularly known as the Hull Program) as repeatedly stated by the State Department, is

> "to increase the foreign markets for products of the United States * * * through reciprocal adjustment of trade barriers."

The program was the subject of extensive debate, leading up to the adoption of the original Trade Agreements Act on June 12, 1934, and at the recurrent extensions in 1937, 1940, and 1943, and most recently in 1945. (Section 350 of the Tariff Act of 1930, as amended, now U. S. Code Title 19, § 1351–4 inc.) On all these occasions the National Foreign Trade Council has supported the Hull Program and advocated the extension of legislative sanction of it.

It is, accordingly, hardly appropriate to go into any extended review of the operation of this program, or to draw new conclusions as to its validity or desirability. Generally speaking, the effect has been to permit substantial reductions in customs tariffs upon imports into this country, by executive action with reciprocal concessions granted by 29 foreign nations. By the application of the "most-favored-nation" rule, such concessions as are granted to products of one Nation by such a trade agreement are extended to like products of a third Nation, provided that third Nation engages in no discriminatory treatment of American products exported to it. Thus we have a composite of an engage-

ment (an "executive agreement", and not a "treaty") which is bilateral in form, but potentially at least, multilateral in effect. Moreover, due to the necessity of relying upon the delegation of powers by Congress, the content of such agreements is inferentially limited (as is the delegation) to the incidents of strictly physical trade, such as tariffs, customs administration, quotas and the elimination or mitigation of discriminatory practices in those matters. In fact, in the drafting of its Trade Agreements, the Department of State has adhered consistently to this concept. Hence, this type of commitment is substantially narrower than the traditional Treaty of Amity and Commerce referred to above. Moreover, having to do with reduction or "binding" of duties upon specific commodities or products, it is peculiarly appropriate to bilateral negotiation and by the same token not amenable easily to multilateral discussion.

The normal form of such agreements is a recital of various stipulations providing for equality of treatment, applicable to imports generally, and usually two schedules listing the commodities and applicable rates of duty, or exemption from duties, upon which each country gives commitments. Except for the "serious injury to domestic producers" escape clause (which has been invoked on few occasions), these commitments run for the duration of the agreement, which under our statute is required to be subject to cancellation after three years from its coming into force. Incidentally, the power to reduce any United States duty rate, or modify our restrictions or excise arrangement, may be exercised only after public notice of the items affected, and public hearings.

In the development of the accepted form of trade agreement, the general stipulations pointed up much of the material to be found in the Proposals under the head "General Commercial Policy" and constituting Chapter V, similarly titled, of the Revised Charter. For example, the first sentence of Article 14, on most-favored-nation treatment, closely resembles Article I of the Agreement with Mexico on December 23, 1942, which is representative of many other such statements of that concept.

The point is, nevertheless, that the content of Chapter V, General Commercial Policy (which incidentally occupies 24 of the 54 pages of the Revised Charter) is substantially limited to matters dealt with by general stipulations of the Hull type of Reciprocal Trade Agreements, which is to say, the incidents of physical trade.

The Charter itself does not attempt to deal specifically with the so-called "commodity schedules", but the implications of Article 24, entitled "Reduction of Tariffs and Elimination of Preferences", if adopted, must be most carefully analyzed with reference to our fabric of tariff concessions. These objectives are in fact identified as a "major goal" of the International Trade Organization. It is stated unofficially:

> "In the past, such tariff negotiations have usually been between two countries at a time. Now the simultaneous negotiation of reciprocal concessions among a large group of countries is to be undertaken." (State Dept., Informal Commentary, Page 10)

Invitations for such discussions have already been issued and they are scheduled for April 8, 1947, at Geneva, Switzerland. We thus have in the near future, an attempt to adapt to a multilateral approach the same technique of specific tariff adjustments which has been employed by the Department in bilateral negotiations over the past twelve years. There appears to be nothing in the statute which would justify any legal objections to this approach, although it is probable that Congress had in mind only bilateral agreements. The authority granted the Executive is

> "(1) To enter into foreign trade agreements with foreign governments or instrumentalities thereof; and
>
> "(2) To proclaim such modifications of existing duties and other import restrictions * * * as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder."

We believe it is intended that the existing network of our Hull Agreements will be woven into the larger network of a multilateral compact, if and to the extent this proves possible of attainment. This we believe is wholly desirable.

BACKGROUND—OUR DIPLOMACY

To recapitulate, the background of the Charter with reference to this country's foreign economic policy, may be summarized as follows:

I. The Charter is not as comprehensive in content, nor as explicit and precise in phraseology, as typical treaties of amity and commerce. It cannot be ac-

cepted in its present form as a substitute for an active program of negotiating and concluding such treaties with important foreign nations, and modernizing those now in effect.

II. The Charter does not deal with fiscal matters, but should be expanded to include certain general stipulations assuring equitable treatment. The program of bilateral treaties on fiscal matters, now actively being developed, should be continued and expanded.

III. The Charter should be reoriented to be consistent with, and implement, the concepts of private intellectual property adopted and recognized in the existing International Convention for the Protection of Industrial Property and The Rome Copyright Convention.

IV. Subject to certain detailed criticisms and reservations, the content of the Charter with respect to the incidents of physical trade is sufficiently comprehensive, and its acceptance on a multilateral basis would be highly constructive. The actual reduction of tariff and similar barriers on a multilateral basis, despite its known difficulties, is well worth attempting through the medium of the International Trade Organization.

ORIGINS OF THE INTERNATIONAL TRADE ORGANIZATION

Relationship to the United Nations and its Other Agencies

In the preceding pages, we have attempted to develop the background of the proposed Charter in terms of more traditional forms of diplomatic commitments affecting foreign trade. That is naturally only part of the whole picture. To supplement that, it is also necessary to set up the horizons which are being brought into view by the adherence of this Country to the United Nations organization, and our participation in its manifold activities, existing and projected. The implications of the proposed Charter, and the validity of its various premises and commitments, and the competence and capacity of the International Trade Organization to attain its objectives, require a similar orientation to the organic documents of the United Nations, its Economic and Social Council, and some, at least, of the commissions and agencies it is setting up.

In dealing with our diplomatic processes, we have included only passing reference to our foreign economic policies during the War. These war-time policies were frankly unrelated, and in some cases diametrically opposed, to normal peacetime concepts of international trade. It would be unrealistic to ignore the possibility that the original Proposals, and in a lesser degree, the proposed Charter, are influenced by several of the emergency concepts and measures to to which this country and its allies resorted for the prosecution of "economic warfare". Moreover, we are still struggling with the problem of ameliorating conditions in areas affected directly by the recent hostilities. In developing our perspective on the United Nations, therefore, it is inevitable to go back into the period of the war itself, and refer to several of its larger diplomatic phases, which we consider significant.

It is true that these diplomatic acts took the form of declarations given out by a few countries while they were belligerents, and did not have the sanction of general acceptance. But insofar as the principles thus enunciated have been adopted and incorporated into the organic instruments under which the United Nations exists, they do now have that general acceptance. And it would be manifestly wrong not to relate our present thinking to that painful realization of the stark necessity of freer international intercourse, which the first critical years of the war brought home to us. It is nothing against those declarations that they were then intended to appeal to all freedom-loving nations. They are well worth re-quoting at this time so that we may trace the derivation of certain concepts which we regard as legitimate, and identify others as of less acceptable origin.

Although the idea of cooperation among nations to remove barriers to international trade and to further their mutual economic interests had its origin in the more distant past, the principles underlying the proposed International Trade Organization first began to take on form and substance in the Joint Declaration issued on August 12, 1941 by President Roosevelt and Prime Minister Churchill of Great Britain. That Declaration, which is more generally known as "the Atlantic Charter," states in part:

> "The President of the United States of America and the Prime Minister, Mr. Churchill, representing His Majesty's Government in the United Kingdom, being met together, deem it right to make known certain common prin-

ciples in the national policies of their respective countries on which they base their hopes for a better future for the world.

* * * * *

"4. They (the two countries) will endeavor, with due respect for their existing obligations, to further the enjoyment by all States, great or small, victor or vanquished, of access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity.

"5. They desire to bring about the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labor standards, economic advancement and social security."

Further substance to the principles underlying the Proposed International Trade Organization was given by Article VII of the Master Mutual-Aid Agreement entered into on February 23, 1942 between Great Britain and the United States. Article VII of that agreement, which was identical in content with similar provisions in other lend-lease agreements to which the United States was a party, states:

"In the final determination of the benefits to be provided to the United States of America by the Government of the United Kingdom in return for aid furnished under the Act of Congress of March 11, 1941, the terms and conditions thereof shall be such as not to burden commerce between the two countries, but to promote mutually advantageous economic relations between them and the betterment of world-wide economic relations. To that end, they shall include provision for agreed action by the United States of America and the United Kingdom, open to participation by all other countries of like mind, directed to the expansion, by appropriate international and domestic measures, of production, employment, and the exchange and consumption of goods, which are the material foundations of the liberty and welfare of all peoples; to the elimination of all forms of discriminatory treatment in international commerce, and to the reduction of tariffs and other trade barriers; and, in general, to the attainment of all the economic objectives set forth in the Joint Declaration made on August 12, 1941, by the President of the United States of America and the Prime Minister of the United Kingdom."

Later, in the Moscow Declaration of October 30, 1943, the governments of Great Britain, the United States, the Soviet Union and China stated, among other things,

"that they recognize the necessity of establishing at the earliest practicable date a general international organization, based on the principle of the sovereign equality of all peace-loving States, and open to membership by all such States, large and small, for the maintenance of international peace and security."

At the Yalta Conference President Roosevelt, Prime Minister Churchill and Premier Stalin, on February 11, 1945, further declared:

"We are resolved upon the earliest possible establishment with our allies of a general international organization to maintain peace and security. We believe that this is essential, both to prevent aggression and to remove the political, economic and social causes of war through the close and continuing collaboration of all peace-loving peoples."

In their declaration, the three heads of government further stated that they had agreed that a conference of the United Nations should be called to meet at San Francisco, in the United States, on April 25, 1945, to prepare the charter of such an organization, along the lines proposed in the informal conversations at Dumbarton Oaks."

ECONOMIC PROVISIONS OF THE CHARTER OF THE UNITED NATIONS

The preamble to the Charter of the United Nations states that the peoples of the United Nations are determined, among other things, "to promote social progress and better standards of life in larger freedom" and "to employ international machinery for the promotion of the economic and social advancement of all peoples." Among the stated purposes of the Charter are:

"(3) To achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character."

The Charter provides that the General Assembly "shall initiate studies and make recommendations for the purpose," among other things, of "promoting

international cooperation in the economic, social, cultural, educational and health fields, and assisting in the realization of human rights and fundamental freedoms for all * * *"

In chapter IX of the Charter is set forth more fully provisions relating to international economic and social cooperation within the framework of the United Nations. That chapter provides (Article 55) that,

> "with a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: (a) higher standards of living, full employment, and conditions of economic and social progress and development; (b) solutions of international economic, social, health and related problems, and international cultural and educational cooperation; and (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

The Charter further states that Members also agree that their policy, in respect of the non-self-governing territories to which the provisions of Article 73 apply, "no less than in respect of their metropolitan areas, must be based on the general principle of good-neighborliness, due account being taken of the interests and well-being of the rest of the world, in social, economic and commercial matters."

ORGANS OF UNITED NATIONS CONCERNED WITH INTERNATIONAL ECONOMIC RELATIONS

Organs of the United Nations which may deal with international economic relations include the General Assembly, the Economic and Social Council and its commissions and subcommissions, the Security Council, the Trusteeship Council and the Secretariat. In addition, most of the inter-governmental specialized agencies, designated in the Charter as "international specialized agencies" which are to be brought into relationship with the United Nations and whose activities will be coordinated by the Economic and Social Council, deal with international economic problems.

As has already been pointed out, one of the functions of the General Assembly, as laid down in the Charter, is to "initiate studies and make recommendations" for the purpose of "promoting international cooperation in the economic, social, cultural, educational and health fields, and assisting in the realization of human rights and fundamental freedom for all * * *"

The Security Council may take action which affects economic relations among nations. The Charter provides that the Security Council "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken * * * to maintain or restore international peace and security." The Charter further states: "The Security Council may decide what measures not involving the use of armed force are to be taken to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication, and the severance of diplomatic relations."

With respect to strategic areas under trusteeship, the Charter states that all functions of the United Nations relating to such areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council. The Charter provides, however, that the Security Council "shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social and educational matters in the strategic areas."

Concerning non-strategic areas under trusteeship agreements, the Charter states: "The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions."

As regards functions of the United Nations with respect to trust territories, the Charter provides that the Trusteeship Council "shall formulate a questionnaire on the political, economic, social and educational advancement of the in-

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habitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire." The Charter further states that, in carrying out the functions, the Trusteeship Council "shall, when appropriate, avail itself of the assistance of the Economic and Social Council, and of the specialized agencies in regard to matters with which they are respectively concerned."

THE ECONOMIC AND SOCIAL COUNCIL

While, as above pointed out, the Security Council and the Trusteeship Council are empowered under the Charter to perform certain economic functions, primary responsibility for carrying out the provisions of the Charter relating to economic matters is vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council.

The Economic and Social Council consists of 18 members of the United Nations elected by the General Assembly for terms of three years; after the initial election one-third of the membership is elected yearly. Each member of the Council has one representative and is entitled to one vote. Decisions of the Council are by a majority of the members present and voting.

As regards Members of the United Nations who are not members of the Council, the Charter provides that the Council "shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member."

In carrying out its functions the Council is required by the Charter to "set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions."

As a further aid to the Council in performing its functions, the Charter provides that "the various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health and related fields, shall be brought into relationship with the United Nations in accordance with the provisions" of the Charter. The Charter further states that the Council "shall make recommendations for the coordination of the policies and activities of the specialized agencies" and "shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth" in the Charter.

As to the functions and powers of the Economic and Social Council, the Charter states:

> "The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.
>
> "It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all. It may prepare draft conventions for submisison to the General Assembly, with respect to matters falling within its competence. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.
>
> "The Council may enter into agreements with any of the agencies referred to in Article 57 (the international specialized agencies), defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.
>
> "It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations. The Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly. It may communicate its observations on these reports to the General Assembly.
>
> "The Council may furnish information to the Security Council and shall assist the Security Council upon its request.

"The Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly."

COMMISSIONS OF THE ECONOMIC AND SOCIAL COUNCIL

As has been noted, the Charter empowers the Council to set up such commissions in the economic and social fields as may be required for the performance of its functions. The Council has thus far created or is in process of creating nine commissions and seven subcommissions. The commissions include the Economic and Employment Commission, the Transport and Communications Commissions, the Population Commission, the Fiscal Commission, the Statistical Commission, the Commission on Human Rights, the Social Commission, the Commission on the Status of Women, and the Commission on Narcotic Drugs. As to subcommissions, the Council has established or voted to establish, as subsidiaries of the Economic and Employment Commission, subcommissions on Employment and Economic Stability and on Economic Development, and a temporary subcommission on the Economic Reconstruction of Devastated Areas. The Council has also authorized the establishment, as a subsidiary of the Statistical Commission, of a subcommission on Statistical Sampling and establishment, as subsidiaries of the Commission on Human Rights, of subcommissions on Freedom of Information and of the Press, the Protection of Minorities, and the Prevention of Discrimination.

The functions of the various commissions and subcommissions of the Economic and Social Council are set forth in the terms of reference of each commission and subcommission. Not all of these commissions and subcommissions of the Council deal with subjects which are importantly related to the work of the International Trade Organization. The terms of reference of those that do are briefly outlined below.

Economic and Employment Commission

The functions of the Economic and Employment Commission, as set forth in its terms of reference, are as follows:

(a) The Commission shall advise the Economic and Social Council on economic questions in order to promote higher standards of living.

(b) It shall examine such questions as may be submitted to it by the Council and shall on its own initiative report to the Council on problems which, in its opinion, require urgent attention.

(c) It shall make recommendations to the Council with reference to economic questions involving concerted study and/or action by more than one specialized agency or commission of the Council and in particular shall draw the attention of the Council to the probable influence of the policies and activities of other commissions of the Council, the specialized agencies or other international organizations on the issues mentioned in paragraph (d) below.

(d) In particular, it shall be the function of the Commission to advise the Council on:

(i) The prevention of wide fluctuation in economic activity and the promotion of full employment by the coordination of national full employment policies and by international action;

(ii) Problems of the reconstruction of devastated areas and other urgent problems arising from the war, with a view to developing means of giving real help, which is so necessary, to various Members of the United Nations whose territories have been devastated by the enemy as a result of occupation and war activties.

(iii) The promotion of economic development and progress with special regard to the problems of less developed areas.

In carrying out the functions set forth above, the Commission shall take account of the close relationship between the short-term problems and the long-term objectives of an expanding and integrated world economy.

Subcommissions of Economic and Employment Commission

The resolution of the Economic and Social Council providing for the establishment of subcommissions of the Economic and Employment Commission, which was adopted on October 1, 1946, reads as follows:

The Commission shall establish the following subcommissions:

(a) A subcommission on Employment and Economic Stability:

(i) to study national and international full employment policies and fluctuations in economic activity;

(ii) to analyze the causes of these fluctuations; and

(iii) to advise the Commission on the most appropriate methods of promoting full employment and economic stability.

(b) A Subcommission on Economic Development to study and advise the Commission on the principles and problems of long-term economic development with particular attention to the inadequately developed parts of the world, having the objectives of:

(i) promoting the fullest and most effective utilization of natural resources, labour and capital;

(ii) raising the level of consumption; and

(iii) studying the effects of industrialization and changes of a technological order upon the world economic situation.

Tempoary Subcommission on Economic Reconstruction of Devastated Areas

The terms of reference of the Temporary Subcommission on Economic Reconstruction of Devastated Areas, which were adopted by the Economic and Social Council on June 21, 1946, directed the subcommission to advise on:

(a) the nature and scope of the economic reconstruction problems of those countries which face great and urgent tasks in this field, whether by reason of occupation or physical devastation;

(b) the progress of reconstruction and the measures of international cooperation by which reconstruction in those countries might be effectively facilitated and accelerated.

The resolution of the Council of October 1, 1946, referred to above, authorizes the Economic and Employment Commission to make recommendations to the Economic and Social Council concerning any other subcommissions which the Commission considers should be established. In particular the Commission is directed to give further consideration to the question of establishment and of the terms of reference of a Subcommission on Balances of Payments and to make an early report on this subject to the Council.

Transport and Communications Commission

The functions of the Transport and Communications Commission, as set forth in the terms of reference of the Commission, are:

(a) to assist the Economic and Social Council in the tasks concerned with transport and communications problems;

(b) to assist the Council on the coordination of the work of specialized agencies in the sphere of transport and communications;

(c) to report to the Council, on its request, on the work of any of the specialized agencies in the sphere of transport and communications;

(d) to advise the Council on fields where no permanent international organization yet exists and on problems which concern more than one sphere of transport and communications;

(e) to suggest to the Council the creation of new agencies, or the conclusion of new conventions or the revision of existing conventions;

(f) on instructions of the Economic and Social Council and when so authorized by convention or agreement between the parties to perform the task of conciliation in cases of disputes between States and/or specialized agencies, on problems concerning international transport and communications where not dealt with by other means;

(g) to perform such other tasks as the Economic and Social Council may require of it on any question concerning international transport and communications;

(h) to assist the Security Council, if so desired by the Economic and Social Council;

(i) to assist the Trusteeship Council, if so desired by the Economic and Social Council.

Population Commission

The resolution of the Economic and Social Council establishing the Population Commission directs the Commission to arrange for studies and advise the Council on:

(a) population changes, the factors associated with such changes, and the policies designed to influence these factors;

(b) interrelationship of economic and social conditions and population plans;

(c) migratory movements of populations and factors associated with such movements;

(d) any other population problems on which the principal or subsidiary organs of the United Nations or its specialized agencies may seek advice.

The resolution establishing the Commission states that "the first task of the Population Commission shall be to draw up with all reasonable speed and submit to the Council for approval, a specific program of work based on its terms of reference and taking into account any modification in those terms of reference which the Commission may wish to recommend to the Council."

Fiscal Commission

The resolution of the Council creating the Fiscal Commission states that the Commission shall:

(a) study and advise the Council in the field of public finance, particularly in its legal, administrative and technical aspects;

(b) advise the Council and other commissions of the Council either upon their request or on its own initiative on the fiscal implications of recommendations made by the Commission in their fields and, in general, to cooperate in matters of common interest with other commissions of the Council and other organs of the United Nations, including the specialized agencies.

The resolution creating the Commission authorizes the Commission "to assist any Member government of the United Nations on the matter set forth in (a) above upon the request of that government."

Statistical Commission

The terms of reference adopted by the Economic and Social Council for the Statistical Commission state that the Commission shall assist the Council:

(a) in promoting the development of international statistics and the improvement of their comparability;

(b) in the coordination of the statistical work of the specialized agencies;

(c) in the development of the central statistical services of the Secretariat;

(d) in advising the organs of the United Nations on general questions relating to the collection, interpretation and dissemination of statistical information;

(e) in promoting the improvement of statistics and statistical methods generally.

The resolution creating the Commission states that the Commission "shall make studies and recommendations and provide information and other services at the request of the Economic and Social Council."

* * * * * * *

As above noted, the Economic and Social Council has authorized the Statistical Commission to establish a subcommission on Statistical Sampling. The subcommission, however, has not yet been set up.

Most of the other commissions and subcommissions have little or nothing to do with international economic relations. For this reason, their functions are not discussed here.

As to the composition of the commissions discussed above, the size of their membership varies. The Human Rights and Social commissions each have eighteen members, the Economic and Employment, Transport and Communications, Status of Women, Narcotic Drugs and Fiscal commissions fifteen members, and the Statistical and Population commissions twelve members. Of the subcommissions, the largest is the Temporary Subcommission on Economic Reconstruction of Devastated Areas, which has twenty members. The subcommissions on Economic and Employment Stability and on Economic Development each have seven members, while the membership of the subcommission on Statistical Sampling is not to exceed nine. The size of membership of some of the other subcommissions has not yet been determined.

Provision is made for the appointment of corresponding members for some of the commissions from countries not represented on the commissions. For example, the number of such corresponding members for the Economic and Employment Commission was set at from ten to fifteen and, for the Statistical Commission, at twelve.

THE SECRETARIAT

The Secretariat is the administrative organ of the United Nations and its function is to serve, and facilitate the activities of, all other organs and agencies of the United Nations. The administration of the activities of the United Nations relating to international economic affairs is performed mainly through the Department of Economic Affairs, the Department of Trusteeship and Information from Non-Self-Governing Territories and, to some extent, through the Department of Social Affairs. The activities of the Department of Economic Affairs are outlined in the "Report of the Secretary-General on the Work of the Organization", dated June 30, 1946, which states:

"This Department provides economic studies and reports for the Economic and Social Council and its economic commissions and committees, and for the Second Committee (Economic and Financial Committee) of the General Assembly; provides technical assistance to all units of the Secretariat requiring economic or statistical information; provides liaison with specialized agencies and non-governmental organizations concerned with regional or international economic affairs, assists in the preparation for international economic and statistical conferences held under the auspices of the United Nations.

"In cooperation with the Department of Social Affairs, it provides personnel to represent the United Nations at conferences and meetings of the specialized agencies; studies economic reports, recommendations and conventions of specialized agencies and non-governmental organizations; makes proposals and suggestions to the Economic and Social Council with respect to the programs and administrative coordination of the specialized agencies."

Regarding the work of the Department of Trusteeship and Information from Non-Self-Governing Territories, the above-mentioned report of the Secretary-General states:

"This Department will serve the Trusteeship Council when it is established. It is also responsible for work resulting from Chapter XI of the Charter concerning Non-Self-Governing Territories other than Trust Territories and, notably, for summarizing information received under the Charter.

"It informs the Secretary-General, and other organizations, of the United Nations, of problems and developments concerning Trust Territories, Non-Self-Governing Territories, and non-security aspects of strategic areas; provides required studies and documentation for the Trusteeship Council and any subsidiary agencies; assists the Council in drafting and consideration of trusteeship agreements, formulation of questionnaires concerning Trust Territories, examination of reports of administering authorities, preparation of annual reports on each Trust Territory, acceptance and examination of petitions, periodic official visits and sureveys; assists the Economic and Social Council and subsidiary agencies in respect of information from Non-Self-Governing Territories; maintains liaison with the specialized agencies on these matters."

THE INTERNATIONAL SPECIALIZED AGENCIES

As has been pointed out, the Charter provides that international specialized agencies shall be brought into relationship with the United Nations and empowers the Economic and Social Council to make recommendations for coordinating the policies and activities of such agencies. The Charter also empowers the Council to initiate among the states concerned action for the creation of new agencies required in carrying out the functions of the Council.

At present there are six international specialized agencies to which the provisions of the Charter relating to such agencies may apply. They include the International Labor Organization, which was established under the auspices of the now defunct League of Nations, the Food and Agriculture Organization, the United Nations Educational, Scientific, and Cultural Organization, the Provisional International Civil Aviation Organization, the International Monetary Fund and the International Bank for Reconstruction and Development. Agreements for bringing the International Labor Organization, the Food and Agriculture Organization, and the United Nations Educational, Scientific and Cultural Organization and the Provisional International Civil Aviation Organization into relationship

with the United Nations have been worked out by negotiating committees representing the Economic and Social Council and each of the four agencies mentioned and have been approved by the General Assembly of the United Nations. It is expected that similar agreements will be worked out with the International Monetary Fund and the International Bank for Reconstruction and Development at the next session of the Council.

Membership in the specialized agencies extends only to nations which voluntarily accept membership in such agencies. In two cases provision is made for admission to the specialized agencies of states not members of the United Nations. In the agreement with UNESCO the admission of states not members of the United Nations to the membership of UNESCO is subject to specified procedure which enables the Economic and Social Council to recommend the rejection of the applications for admission. A similar provision is included in the agreement with PICAO with the difference that the General Assembly, and not the Economic and Social Council, would review the applications for membership in the organization.

The draft agreements negotiated with the four international specialized agencies mentioned above are similar in many of their provisions. Before summarizing their contents, however, it should be noted that, in accordance with the provisions of the Charter, the draft agreements provide that the four specialized agencies shall be brought into relationship with the United Nations as a whole and not with the Economic and Social Council alone. This makes it possible for the specialized agencies to have direct relations with the other principal organs of the United Nations where such relationship is clearly to the mutual advantage of the parties concerned. The draft agreements, in fact, require the specialized agencies mentioned to assist the Security Council and the Trusteeship Council, upon request, in carrying out their functions, and to furnish such information as may be requested by the International Court of Justice.

Under the terms of the draft agreements, representatives of the United Nations will be invited to attend meetings of the conference and executive bodies of the specialized agencies and to participate, without vote, in their deliberations. Representatives of the specialized agencies, on the other hand, will be invited to participate, without vote, in meetings of the Economic and Social Council and of its commissions and of the Trusteeship Council, with respect to items on their agenda relating to matters in which the agency has indicated that it has an interest, or which come within the scope of its activities. Representatives of the specialized agencies will also be invited to attend meetings of the General Assembly in a consultative capacity and to participate, without vote, in the deliberations of its main committees when matters which come within the scope of the activities of an agency are under discussion.

Written statements will be distributed by the United Nations Secretariat whenever requested by a specialized agency. The agreements also contain a reciprocal obligation under which the Economic and Social Council or the Trusteeship Council, on the one hand, and the specialized agencies on the other, agree to include on their agenda, items which either body may propose to the other.

Although the draft agreements impose many mandatory obligations on the specialized agencies, the United Nations expressly recognized in each agreement the special competence of the agencies within their respective fields of activity as laid down in their basic instruments. Those functions and responsibilities which belong exclusively to the United Nations are, nevertheless, fully safeguarded. Each specialized agency is required under the draft agreements to submit to its policy making or executive organ all formal recommendations which the United Nations may make to it, to report to the United Nations, in accordance with requirements of the Charter, all action taken to give effect to these recommendations, and to enter into consultation with the United Nations upon request. Likewise, in recognition of the responsibility conferred on the General Assembly and on the Economic and Social Council for the coordination of the policies and activities of the specialized agencies and those of the United Nations, the specialized agencies specifically undertake to cooperate with the United Nations in whatever measures may be necessary to make such coordination fully effective.

During its third session, which extended from September 11 to October 3, 1946, the Council appointed a standing Coordination Committee, consisting of the

Secretary-General and the corresponding officers of the specified agencies brought into relationship with the United Nations, to ensure the fullest and most effective implementation of the agreements between the United Nations and the specialized agencies.

As regards financial matters, the draft agreements require the specialized agencies to establish the closest possible budgetary and financial relations with the United Nations. The agreements envision the possibility that supplementary agreements will subsequently be entered into in which appropriate arrangements would be defined for the inclusion of the budgets of the specialized agencies within a general budget of the United Nations. Such "consolidated budget" is, however, conceived as a longer term objective. For the present, the specialized agencies are committed under the draft agreements to confer with the United Nations in the preparation of their budgets, transmit their proposed budgets annually to the General Assembly for examination, and conform as far as practicable to standard practices and forms recommended by the United Nations. In addition, the specialized agencies are entitled to participate, without vote, in the deliberations of the General Assembly or any of its committees whenever their budgets or general financial or administrative questions affecting them are under consideration; and the United Nations is empowered, subject to the terms of supplementary agreements to be negotiated at a later date, to undertake the collection of contributions from those members of a specialized agency which are also Members of the United Nations.

At the second part of its first session, concluded late in 1946, the General Assembly granted to the Economic and Social Council and to the specialized agencies the authority to request advisory opinions from the International Court of Justice concerning matters within their competence.

Since the United Nations itself, as well as most of the specialized agencies, are in their formative stages from an organizational and administrative point of view, the draft agreements had necessarily to be framed in general rather than specific terms. It is contemplated that detailed working arrangements between the United Nations and the specialized agencies will be developed gradually in the light of day-to-day needs and experiences. Accordingly, the agreements are open to revision by mutual consent at any time, or (in the case of the United Nations Educational, Scientific and Cultural Organization) not later than three years after coming into force. In fact, the Secretary-General and the permanent head of each specialized agency are expressly authorized to enter into such supplementary arrangements for the implementation of the agreements as may be found desirable in the light of the operating experience of the respective organizations.

The draft agreements also contain other important provisions. For example, they provide, subject to necessary arrangements to safeguard confidential material, for full and prompt exchange of information and documents between the United Nations and each specialized agency. Provision is made for interagency cooperation in technical services relating to the collection, analysis, publication and dissemination of statistics and for consultation between the United Nations and the specialized agencies concerning the establishment and use of centralized administrative services and facilities in so far as these may be found practicable and appropriate.

The agreements also provide for the establishment of as much uniformity as is practicable in matters relating to personnel arrangements. With the development of a single unified international civil service as an eventual objective, the agreements provide that the United Nations and the specialized agencies will undertake to develop common personnel standards, methods and arrangements designed to avoid serious discrepancies in terms and conditions of employment, to avoid competition in recruiting personnel and to facilitate interchange of personnel, when desirable, on either a temporary or permanent basis.

Initial steps to give effect to the foregoing provisions relating to personnel arrangements have already been taken by the Secretariat. Particular emphasis is laid on the necessity for close and continuous consultation at the Secretariat level as a means of assuring effective coordination of the activities of the specialized agencies with those of the United Nations. Substantial progress in developing the necessary technical and administrative liaison has already been made by the Secretariat of the United Nations.

PROPOSED CREATION OF SPECIALIZED AGENCY FOR INTERNATIONAL TRADE

At the instance of the United States, the Economic and Social Council, at its session in London, adopted on February 18, 1946 a resolution calling for an International Conference on Trade and Employment. The resolution of the Council reads as follows:

"THE ECONOMIC AND SOCIAL COUNCIL, considering it essential that the cooperative economic measures already taken be supplemented by further international measures dealing directly with trade barriers and discriminations which stand in the way of an expansion of multilateral trade and by an undertaking on the part of nations to seek full employment.

1. DECIDES to call an International Conference on Trade and Employment, in the latter part of 1946, for the purpose of promoting the expansion of production, exchange and consumption of goods;

2. CONSTITUTES a Preparatory Committee to elaborate an annotated draft agenda, including a draft convention, for consideration by the Conference, taking into account suggestions which may be submitted to it by the Economic and Social Council or by any Member of the United Nations;

3. SUGGESTS, as a basis of discussion for the Preparatory Committee, that the agenda include the following topics:

(a) International agreement relating to the achievement and maintenance of high and stable levels of employment and economic activity.

(b) International agreement relating to regulations, restrictions and discriminations affecting international trade.

(c) International agreement relating to restrictive business practices.

(d) International agreement relating to inter-governmental commodity arrangements.

(e) Establishment of an international trade organization, as a specialized agency of the United Nations, having responsibilities in the fields of (b), (c), and (d) above;

4. REQUESTS the Preparatory Committee, when considering the foregoing items, to take into account the special conditions which prevail in countries whose manufacturing industry is still in its initial stages of development, and the questons that arise in connection with commodities which are subject to special problems of adjustment in international markets;

5. REQUESTS the Preparatory Committee to report to the subsequent session of the Council recommendations regarding the date and place of the Conference and the agenda (including a draft convention) and also what States, if any, not Members of the United Nations, should be invited to the Conference on Trade and Employment."

The council appointed as members of the Preparatory Committee representatives of the governments of the following countries: Australia, Belgium, Luxembourg, Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Netherlands, New Zealand, Norway, South Africa, the Soviet Union, the United States and the United Kingdom.

At the second session of the Economic and Social Council, held in New York City in the spring of 1946, the Secretary-General of the United Nations announced that it would not be possible to hold the International Conference on Trade and Employment until 1947 "in view of the scope and complexity" of the preparatory work which would be necessary before the Conference could be held. The Preparatory Committee, however, held an initial meeting in London beginning on October 15, 1946. A second meeting of the Preparatory Committee is scheduled for April 8, 1947, and the full Conference is expected to be held in the summer or fall of 1947. The second meeting of the Preparatory Committee is expected to be held at the same time as the meeting called by the United States for negotiation of trade agreements under the American Reciprocal Trade Agreements Act. The nations invited by the United States to enter initially into reciprocal trade negotiations with this country are the same nations that were invited by the Economic and Social Council to become members of the Preparatory Committee which will lay the groundwork for the projected International Conference on Trade and Employment.

BACKGROUND—THE UNITED NATIONS

From the foregoing we may draw certain conclusions as to the position of the International Trade Organization. It is not an organ or commission of the United Nations, although it will have to be "brought into relationship" with that body by a formal engagement between it and the Economic and Social Council. This latter body will presumably rely upon its "Economic and Employment Commission", and in turn upon the two subcommissions on "Employment and Economic Stability" and "Economic Development" for performance of this adjustment.

Primarily, however, the International Trade Organization will derive such authority as it possesses from its "basic instrument", the Charter, and from the adherence to that of individual nations as members. This is why the Charter is treated as a multilateral convention. Its content and terms will be arrived at by negotiation among those invited to the Trade Conference, and hence will not necessarily be parallel with or coextensive with the relevant portions of the United Nations Charter, although we may reasonably expect that the broad concepts of that instrument will be reflected and implemented in it.

The second point is that there is no automatic relationship between membership in the United Nations and membership in the International Trade Organization. Not all members of the United Nations may be attracted to the Trade Organization as now projected. And some nations, not yet admitted to the United Nations, may conceivably wish to adhere to the Suggested Charter, and be accepted.

It is obvious that these two factors are practically interrelated. If the membership of the Trade Organization is limited in number, it is quite possible that the area of agreement may be larger, and the content of the Charter more specific and constructive. On the other hand, the less definite the obligations to be assumed, and the more extensive the exceptions, the greater the number of nations which will be agreeable to forego their freedom of action, and join the Organization.

It is our feeling that the device of "specialized agencies" developed in reliance upon specific multilateral commitments, is a very useful one. It is likely to prove more constructive in terms of early practical results than the more cumbersome machinery of the United Nations itself. Based on this assumption, we believe that this method of dealing with matters affecting international trade will take precedence, as it should, over less effective procedures. In other words, any doubts as to the "competence" of the International Trade Organization to deal with border-line subjects, should be resolved in its favor, if it really promises to deal with them, reasonably soon and fairly positively.

A further point of interest under this set-up is the degree to which commitments of the member nations can be enforced. In general, issues arising under commitments in the Charter, will be dealt with by the Conference of the Organization, and like those contained in any treaty, may be the occasion of a "justiciable issue" which eventually comes before the International Court of Justice. If the issue arises concerning security matters (Articles 32 and 49) recourse to the Court is of right, but any other decision may be appealed from the Conference of the International Trade Organization only "in accordance with procedures" to be set by the Conference. The Organization may on its own initiative refer any question of interpretation to the Court for an advisory opinion. Thus, it would seem that the function of fact-finding is assigned to the Conference, which is constructive. The enforceability of a ruling of the Conference or, indeed, of a judgment of the International Court of Justice, depends in the last analysis upon "recommendations" to the members, and upon the general commitment of each member to accept and comply with such decisions.

In addition to this general provision, there is a specific sanction in the case of failure to negotiate for the reduction of tariffs and the elimination of preferences as required by Article 18. This sanction is the withholding of corresponding advantages, and may be applied by the complaining member or "in exceptional cases" by the members generally. In either case, a finding is required by the Organization that the failure to negotiate is "without sufficient justification". These procedures seem somewhat futile. It is to be hoped that the mechanism for enforcement will, as time goes on, be substantially strengthened.

* * *

FEBRUARY 27, 1947.

EXHIBIT VI–D

[Pamphlet]

(United States Associates—International Chamber of Commerce, Incorporated)

REPORT OF COMMITTEE ON COMMERCIAL POLICY ON THE SUGGESTED CHARTER FOR AN INTERNATIONAL TRADE ORGANIZATION OF THE UNITED NATIONS

BUSINESS PUBLISHERS INTERNATIONAL CORPORATION

330 West 42nd Street, New York, N. Y.

OCTOBER 22ND, 1946.

Mr. PHILIP D. REED,
Chairman, United States Associates,
570 Lexington Avenue, New York 22, N. Y.

DEAR MR. REED: I transmit to you herewith a report prepared by the Committee on Commercial Policy upon the "Suggested Charter for an International Trade Organization of the United Nations". The members of the Committee who participated in the deliberations on this subject are set forth in the report.

Though the detailed recommendations of the Committee cannot be summarized in a brief space, its general position can be summed up as follows:

It welcomes the international conferences which have been arranged to negotiate the reduction of restrictions to world trade and to draft an International Trade Organization Charter. It endorses the objectives sought by the "Suggested Charter" published by the United States Department of State. Issue is taken with some provisions, additions are suggested to others, and it is recommended that certain language, particularly the escape clauses, be tightened.

Recognizing that the ultimate success of the proposed International Trade Organization will depend less on the precise terms of the Charter than on the will of member nations to subscribe to its objectives, the Committee urges that the membership of the ITO include all the principal trading nations of the world, but enjoins the United States delegates from compromising on matters of principle in their efforts to get other nations to join.

With best wishes,
Yours truly,

JNO ABBINK,
Chairman, Committee on Commercial Policy,
United States Associates.

John Abbink
—SF
Affiliated with McGraw-Hill Publishing Company, Inc. and Chilton Company, Inc.

COMMITTEE ON COMMERCIAL POLICY

Chairman: John Abbink, President, Business Publishers International Corporation, 330 West Forty-second Street, New York, New York.

Members:

Frederick K. Barbour, President, The Linen Thread Company, Inc., 60 East Forty-second Street, New York 17, New York.

Lee Bristol, Vice President, Bristol-Myers Company, 630 Fifth Avenue, New York, New York.

Joseph W. Evans, President, Evans and Company, Houston, Texas.

Joseph M. Hartfield, White and Case, 14 Wall Street, New York, New York.

Lloyd Mazzera, Vice President, International Banking Department, Bank of America National Trust and Savings Association, 300 Montgomery Street, San Francisco, California.

Murray Shields, Vice President, Bank of The Manhattan Company, 40 Wall Street, New York, New York.

Joseph P. Spang, President, Gillette Safety Razor Company, 15 West First Street, Boston, Massachusetts.

Alan Valentine, President, University of Rochester, Rochester, New York.

Rapporteur: Richard G. Gettell, Fortune Magazine, Empire State Building, New York, New York.
Consultant: Clifford Stark, Business Publishers International Corporation, 330 West Forty-second Street, New York, New York.

Summary of Report of Committee on Commercial Policy

We support the proposal that international conferences be held to negotiate the removal of obstacles to the expansion of world trade and to draft the Charter for an International Trade Organization. Agreement should be reached on the Charter before negotiations are completed for the lowering of particular trade barriers.

The ITO should include all the principal trading nations of the world lest it foreshadow the creation of competing economic blocs. But no compromise with its principles must be permitted merely to induce membership.

We subscribe to the general objectives of the ITO as stated in the Suggested Charter, but we urge the reinsertion of the clause providing all nations equal access to the trade and raw materials of the world.

As for the provisions affecting commercial policy: we endorse the central objective of extending multilateral trade. We see substantial advances towards that goal in the clauses providing firm dates for the termination of restrictions currently employed to meet dislocations arising from the war. We take a hopeful view of the machinery to be established for the administration and interpretation of the Charter, and of the sanctions devised to enforce it. But we urge that additional machinery be created to provide international arbitration and conciliation of minor disputes.

We endorse the provisions for the negotiation, on a mutually advantageous basis, for the gradual reduction of preferences, and we agree that they should be governed by the principles of nondiscriminatory most-favored-nation treatment. We feel that subsidies should be subject to similar negotiations and that quantitative restrictions should eventually be eliminated.

Since many aspects of international trade are affected by the Bretton Woods Agreements we believe it imperative that the ITO be closely integrated with the International Monetary Fund lest the administration of exchange controls and currency revaluations defeat the purposes of the ITO.

Our greatest concern is with the breadth and variety of escape clauses which appear throughout the Charter. Their language should be tightened and their interpretation must be strict. Irresponsible acts, taking advantage of these loopholes, could wreck the ITO.

We approve the measures designed to afford relief to the private trader from conflicting and onerous internal administrative practices. We suggest that the ITO Secretariat serve as a clearing-house for trade information. And we urge that the Charter provide protection of patents, trademarks and copyrights, and of properties and investments held privately in foreign territories.

Report of the Committee on Commercial Policy, United States Associates, International Chamber of Commerce, Incorporated

Foreword

The report which follows is directed specifically to the commercial policy provisions of the Suggested Charter for an International Trade Organization of the United Nations. It does not comment on the provisions which relate to State Trading, Employment, Restrictive Business Practices and Intergovernmental Commodity Agreements, all of which are being considered by other appropriate Committees of the United States Associates.

The Committee which met to consider the commercial policy provisions became progressively impressed by the realization that it was discussing an inanimate document into which life will be breathed only by the action of men and governments. The language of the Charter will be irrelevant and the proposed ITO will be futile unless they are the implements of agreed national policies. Governments, and the populations supporting them, must not only understand the mutual advantages of expanded multilateral trade; they must be so convinced of them that they will insist that the proposed ITO be made to work. No patchwork of compromises and escape clauses enabling reluctant nations to give mere

lip-service to the undertaking can be tolerated. And no bartering of intangible promises against real immediate sacrifices can be acceptable around the conference table.

We are convinced that it would be to the interest of all nations to have an effective ITO pursuing the objectives outlined in the United States proposals. But we insist that to make it effective the United States delegates must stand firm in their negotiations, accepting no compromise with principles and making no sacrifices which are not matched by those of other nations. To construct a workable and mutually beneficial ITO will not only require general adherence to common objectives but also demands the negotiation of provisions by which membership is economically attractive and lack of membership distinctly unattractive to the trading nations of the world.

BACKGROUND

1. The last report of the Committee on Commercial Policy in the Spring of 1946, was addressed to the "Proposals for Expansion of World Trade and Employment" published by the United States Department of State in December 1945.

2. These "Proposals" suggested an international conference on trade and employment for the purpose of establishing an International Trade Organization of the United Nations. They indicated the general objectives of such an Organization and outlined its possible structure and functions. While presenting its views in this document as a preliminary basis for discussion, the State Department stated that the subsequent publication of a Suggested Charter for the ITO would elaborate the original proposals and clarify the means by which they might be implemented.

3. This Committee endorsed the suggestion that such an international conference be held and that steps be taken towards the establishment of an ITO, committed to the following objectives:

a. "To promote international commercial cooperation by establishing machinery for consultation and collaboration among member governments regarding the solution of problems in the field of international commercial policies and relations.

b. "To enable members to avoid recourse to measures destructive of world commerce by providing, on a reciprocal and mutually advantageous basis, expanding opportunities for their trade and economic development.

c. "To facilitate access by all members, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity.

d. "In general, to promote national and international action for the expansion of the production, exchange and consumption of goods, for the reduction of tariffs and othr trade barriers, and for the elimination of all forms of discriminatory treatment in international commerce; thus contributing to an expanding world economy, to the establishment and maintenance in all countries of high levels of employment and real income, and to the creation of economic conditions conducive to the maintenance of world peace."

4. The details of the proposals, as distinct from the broad purposes of the ITO, received a more qualified approval from the Committee. Reservations were attached to the proposals related to employment and state trading. The provisions affecting commercial policy, though endorsed in principle, were held in need of tightening and further clarification. And direct issue was taken with the sections dealing with restrictive business practices and inter-governmental commodity arrangements.

5. Despite these qualifications, the Committee made clear its accord with the intent of the State Department proposals: to look beyond the early post-war transitional period to the ultimate reorientation of world trade on a multilateral, non-discriminatory basis among nations and with a minimum of restrictions upon private enterprise. It was a matter of encouragement when, in June 1946, the Council of the International Chamber of Commerce adopted a Resolution stating that it "wholeheartely endorses the fundamental tenets and broad aims of these Proposals".

6. In addition to the publication of the original "Proposals" other steps have been taken towards the realization of the ends to which they aspire:

a. Granted the authority by Congress for a further 50% reduction of our tariff schedules, by negotiation under Reciprocal Trade Agreements, the United States Government invited a number of leading trading nations to

meet together to negotiate mutually advantageous reductions in existing trade barriers. These nations will constitute an Interim Tariff Committee, the membership of which will provide the nucleus and the jointly agreed trade concessions among which will constitute the foundation of the proposed ITO.

b. The Economic and Social Council of the United Nations accepted the initial proposals of the United States and, in February of this year, adopted a resolution calling an international conference on trade and employment to consider the creation of an ITO. It established a 19 nation Preparatory Committee to meet in London in October 1946 to prepare the draft charter for such an Organization.

c. As an elaboration and clarification of its original "Proposals", and as a further basis for discussion within the Preparatory Committee, the State Department has just issued as Publication 2598, a "Suggested Charter for an International Trade Organization of the United Nations".

7. The recommendations which follow are based on the Committee's consideration of each of the above-mentioned developments. Although its primary attention will be directed towards the commercial policy provisions of the Suggested Charter, it believes that the Charter can assume significance only in the light of the accomplishments of the Preparatory Committee and the Interim Tariff Committee.

THE PREPARATORY COMMITTEE

THE INTERIM TARIFF COMMITTEE

8. It was originally contemplated that the functions of the Interim Tariff Committee and the Preparatory Committee should be combined, that the nations called together by the United States to negotiate reciprocal relaxation of trade barriers, should also, along with a few others named by the Economic and Social Council of the United Nations, constitute the group which would simultaneously prepare an ITO Charter for presentation to a later United Nations Conference on Trade and Employment.

9. Now, although each group has the same membership, their functions are split and it is expected that the Preparatory Committee's deliberations on the draft of a general Charter will be substantially under way before detailed negotiations commence among the members of the Interim Tariff Committee.

10. This Committee commends the wisdom of this procedure. We believe it imperative in these matters that agreement in principle should precede the negotiation of details. At best the national interests involved are so varied and the problems so complicated that full accord will be difficult to reach among the conferees. The general objectives of the Preparatory Committee should not be jeopardized nor should their expression be delayed while the inevitably slow process of international bargaining on trade restrictions is being undertaken. And, equally important, no nation should be permitted to condition its acceptance of membership and its agreement with the general principles of the ITO on the success of its bargaining to remove barriers to its own foreign trade. By the same token, no nation should be maneuvered into the position of making unilateral concessions in order to induce the membership of others.

11. It is urged, therefore, that the Preparatory Committee would best serve its function if it concentrated its energies on the important first steps of gaining international accord on the common objectives of an ITO, and of settling matters of procedure. To accomplish even this will require that the representatives of each nation approach the London Conference in a spirit of compromise and mutual understanding.

12. The positive accomplishment of the ITO will eventually emerge from the Interim Tariff Committee, and from subsequent negotiations to remove specific barriers to world trade. It is the activities of this group which we shall want to observe most closely. Not only will their agreements help set the pattern for post-transition period trade among nations, but also the degree of their success will determine the force of the ITO's sanctions on Members and non-members.

THE SUGGESTED CHARTER COMPARED WITH THE EARLIER PROPOSALS

13. The Committee is pleased to report that the Suggested Charter incorporated many of the changes which were previously recommended as necessary to strengthen and clarify the original "Proposals", even while it follows the same general outlines and seeks the same broad objectives.

14. Particularly to be noted are the efforts to:

a. delimit the post-war transitional period by establishing firm dates for the ending of trade restrictions which have been imposed to counteract particular imbalance caused by the war.

b. define in more specific terms the "escape clauses" under which the operations of the Charter may be avoided because of extraordinary circumstances. It is strongly felt, however, that, notwithstanding the obvious necessity for certain exceptions to the general rule, the Suggested Charter still includes such a varied and loosely worded list of exemptions that the fundamental purposes of the ITO could be defeated by their abuse. The ultimate test of success will be found in the administration and interpretation of these exceptions, and in the inclination of the several nations to invoke them. Any Member country with a propensity to adhere to the letter but violate the spirit of the ITO can find more than adequate legalistic justification for pursuing a course which might be inimical to the interest of other Members.

c. establish machinery for the administration and interpretation of the Charter and to devise sanctions for its enforcement. It is felt, however, that the ITO machinery will be unduly slow and cumbersome for the handling of minor complaints and disagreements among Members. Accordingly we wish to reiterate the proposal made by the International Chamber of Commerce in June 1946 that the nations joining the ITO agree "to accept international arbitration or conciliation on complaints relating to the application of exceptions and to introduce a suitable arbitration clause in the agreements negotiated." As for the sanctions: that they will be weakest at first when they are most needed, and will become progressively stronger, in direct proportion to the success of negotiations in the Interim Tariff Committee and later among Members of the ITO under Article 18, is a regrettable but probably unavoidable characteristic of international relations. The fact that this Suggested Charter does not provide sanctions which will be immediately effective reflects the hopeful character of the whole ITO proposal and acknowledges that its true significance will emerge only as the Member nations gain experience in international cooperation in the economic sphere.

15. The Committee cannot fail to note a curious omission which, it is to be hoped is without significance. A fundamental tenet of the Atlantic Charter was specifically included in the "Proposals" when it stated as one of the purposes of the ITO:

"To facilitate access by all members, on equal terms, to the trade and to the raw materials of the world. . . ." Although these particular words are not included in the language of the Suggested Charter the Committee trusts that the non-discriminatory features of the Charter will assure the realization of this purpose. Lest there be any doubt of this, we urge that this clause be reinstated.

16. Not included in the original Proposals, but now added to the statement of purposes of the Suggested Charter, we find as one of the objectives of the ITO:

"To encourage and assist the industrial and economic development of Member countries, particularly of those skill in the early stages of industrial development."

The Committee believes this to be a significant addition to the fundamental aims of the ITO. It must be recognized, however, that inherent in this broad provision is the danger that some nations with embryonic industries may take advantage of it to justify excessively high tariff walls protecting inefficient and uneconomic industries as well as potentially efficient and economic ones. This would be to the detriment, not only of other Member nations but, in the long run to themselves. Rather, we think that the force of this clause should be to encourage the import of machinery and technological know-how into the territories of the less advanced countries. It is axiomatic that it is advantageous to developed and underdeveloped economies alike to hasten the process of industrial development.

THE SUGGESTED CHARTER

17. Among the Articles of the Suggested Charter which relate to Commercial Policy, many are merely organizational or procedural in character, others are matters of little dispute, still others are peripheral to the central objectives of an ITO, and a few hold the key to its ultimate possibilities. Although the Committee has considered the Suggested Charter, Article by Article, it believes that its recommendations will gain significance by concentrating on the key proposals, only mentioning the secondary provisions in instances where action should be taken or where disagreement was found.

18. The basic pledge of post-war commercial policy is found in Article 8 which establishes the cardinal principle of most-favored-nation treatment among all Members of the ITO. It recognizes that existing preferences cannot be swept away overnight but provides that none can be increased in the future, and that most all shall be subject to a process of elimination in the future. The specified exceptions to this provision are not unduly onerous. The Committee believes that a great step in the direction of freeing world trade would be taken by the international adoption of this guiding principle.

19. The corallary principle: nondiscrimination in the trade relations among Members of the Organization is expressed in a number of provisions scattered throughout the Suggested Charter. Chief among these are Article 9 which establishes the principle that in internal taxation and regulation imported products shall be accorded treatment no less favorable than that of like products of national origin; Article 17, which constitutes an anti-boycott pledge; Article 21, which set forth rules for the nondiscriminatory administration of quantitative restrictions on imports and exports; and Article 24, which provides for equality of treatment in the administration of exchange restrictions. Each of these provisions stresses the general ITO purpose of checking discriminatory policies affecting international trade. This, too, is an objective with which the Committee is in accord.

20. Once Article 8 has checked the extension of further preferences, the machinery for eliminating those which remain is detailed in Article 18. Here it is provided that all Members of the ITO, except those engaged in state trading, shall be obliged to negotiate tariff reductions and the elimination of preferences, bilaterally, or multilaterally, on a most-favored-nation basis, with any other Member country requesting such negotiations. The Organization is to be kept informed of the progress of the negotiations and on complaint of failure to live up to Charter obligations may deprive a Member of tariff reductions previously granted by the complainant or by all Members of the ITO. The Committee approves the practicality of this provision, and envisages it as a means by which existing trade barriers can gradually be whittled away. That the sanction for non-compliance is ineffective until concessions have already been granted, is the fundamental weakness of this procedure. Only if the Interim Tariff Committee, the activities of which provide a preview of the operation of this Article, is successful in its negotiations, will the ITO be firmly established in this regard.

21. The provisions designed to provide for the elimination of quantitative restrictions on imports and exports contained in Article 19 appear less satisfactory to the Committee which cannot help but note that a full page was required to list the exemptions. We see great progress in the establishment of a time limit to the duration of the "early post-war transitional period" in the name of which so many quantitative restrictions are now invoked. Such a commitment, however distant its effective date may be, should do much to reorient and firm the planning for future trade expansion. We would be remiss, however, if we failed to record our fear that many quantitative restrictions now justified by the problems of transition may tend to be continued under other of the broadly worded escape clauses found in this Article, the interpretation of several of which is initially determined only by the Member choosing to invoke them.

22. Article 20 contains the provisions under which a Member country confronted with an adverse balance of payments may apply quantitative restrictions to its imports to restore its balance. This can be done without consultation with the Organization during the "transition period". Thereafter such restrictions can be imposed only in the event that the Organization determines, on consultation with the International Monetary Fund, that there is a long continuing or large deficit in the Member's balance, or that its monetary reserves are low and restrictions are necessary to forestall a deficit. The Committee believes that this provision is totally unnecessary and undesirable and that it should be excluded from the Charter. When the transition period is past, quantitative restrictions, which cannot fail to be discriminatory, should no longer be permitted, except under most extraordinary circumstances. There are ample means available under the Bretton Woods agreements by which nations can correct adverse balances of payments, without the use of this additional device.

23. The nations which are Members of the International Monetary Fund are already committed to procedures specified in the Articles of Agreement of the Fund. Consequently, the provisions suggested for the ITO Charter regarding the lifting of exchange controls, and the exemptions therefrom, are, of necessity, circumscribed by the Bretton Woods agreements. Articles 23 and 24 of the Suggested Charter, together with the relevant provisions of the Fund Agreement.

impose few restraints upon the use of exchange controls during the "transition period". Thereafter, exchange controls are permitted, under the Fund's rules, primarily to conserve "scarce currencies". Since these controls are akin in effect to direct quantitative restrictions on international trade, this Committee approves the intent to curtail the use of these restrictive devices after the transition period. But inasmuch as controls applied to scarce currencies are inevitably discriminatory in effect, we urge that their use in the future be most rigorously supervised. In this connection we note with dismay that early actions of the Board of Governors of the Fund show little apparent disposition to interpret escape clauses strictly. Their recent ruling under which currency devaluation will be permitted to counteract a loss of foreign trade which causes chronic or persistent employment suggests that overly elastic interpretation of the Fund's provisions could nullify many of the purposes of the ITO. It seems imperative, therefore, that close working relationships be established between the Fund and the ITO, and that in all instances where Fund activities clash with ITO objectives, the ITO shall have the right to appeal beyond the Governors of the Fund.

24. Articles 11 and 25 constitute, respectively, the negative and positive approaches to the problems of dumping and export subsidization. While it must be recognized that domestic circumstances will sometimes dictate a policy of export subsidization, the Committee points out the essentially uneconomic character of action taken under Article 11. The provision that a retaliatory tariff may equal but not exceed the margin of dumping is, given the realities of present national policies, a reasonable measure to avoid internal dislocations caused by dumping, subsidization policies, and progressive retaliatory actions. But this is the negative approach which at best will minimize the deflation of real incomes which stems from disregard for the principle of comparative advantage. We contend that a greater contribution to the expansion of trade and employment and to the raising of standards of living in all nations would follow from more positive action under Article 25. In particular we suggest that the terms of that Article be amended to provide for the prohibition of new and larger subsidies, and for negotiations for the progressive reduction of many existing subsidies.

25. Previous sections of this report have already expressed concern over the breadth and variety of escape clauses which appear throughout the Suggested Charter. Nevertheless, the Committee feels that particular attention should be drawn to the provisions of Articles 29 and 32. The former Article provides for the unilateral withdrawal of concessions to protect domestic producers of particular products from serious actual or threatened injuries arising from unforeseen developments in the operation of obligations incurred under the Charter. Such action, however, is subject to advance notice, review, consultation with affected Members, and the usual sanction of deprivation of other concessions. The broad general exemptions listed under Article 32 on the other hand are surrounded by no such safeguards. They can be invoked upon the sole determination of a single Member. Although it must be acknowledged that some of the exemptions relate to matters which are strictly concerned with national policy, we feel that the language of this Article should be tightened to prevent its abuse and that, wherever possible, its employment should require advance notice. In addition, though the general provisions of Article 30 provide for consultation, complaint, review, and sanctions in the event that any Member is adversely affected by the commercial policies of another, we believe that potential abuses could be more effectively checked by the specific attachment of similar safeguards, wherever feasible, to the general exemption clauses of Article 32. And, as mentioned before, arbitration procedure should be established to handle minor disputes.

26. A cardinal feature of the entire proposal is made explicit in Article 31 which defines the relations of Members and non-members of the Organization. The intent is quite clear: to provide a progressively strong incentive for Member nations to retain their membership by permitting them alone to share in the benefits of their mutual concessions. There are serious implications to this procedure, however, in the event that the obligations of membership are not accepted by all the leading trading nations of the world. If, from the outset, membership is practically universal, and if substantial mutual concessions are negotiated among all Members, the few nations remaining outside will have strong reason to join in order to obtain the advantages otherwise denied them. If the initial membership falls far short of including the key participants in world trade, the ITO might become one of several highly competitive economic blocs. The political as well as the economic consequences of this are fearsome to contemplate. Accordingly we urge that every effort be made, in the Prepara-

tory Committee and later in the proposed United Nations Conference on Trade and Employment, to insure the widest possible membership in the ITO. But this must not be accomplished by any compromise of their basic principles of multilateral, nondiscriminatory trading.

27. Though their consequences may not be crucial to the success of the Organization, there are several additional types of trade restrictions which this Charter proposes to mitigate. Each relates to details of internal administrative practice. Article 10 outlines a set of working rules to afford freedom of transit. Article 12 endeavors to establish the principles under which tariff valuations could be more nearly standardized among nations. Articles 13 and 14 detail similar objectives as regards customs formalities and regulations as to marks of origin. The Committee wishes to emphasize the relief which such provisions will offer the private trader who now has to contend with an overwhelming burden of formalities, regulations and differing practices in many of the markets in which he deals. The removal of these obstacles is more than a mere amelioration of petty annoyances; it can spell the difference between trading or refraining from trading in some areas. We strongly favor the proposals included in these Articles, and urge that the facilities of the Organization, or, where indicated, special international conferences, be employed, without delay, to render these proposals concrete. Since the International Chamber of Commerce has done pioneer work in the field of standardizing trade terminology and simplifying international trade practices, and has published a number of reports on the subject, we suggest that the ITO consult with the Chamber when these problems are given consideration.

28. An additional assistance to the trader could be provided by a small amendment to Article 15, which requires the publication by Members of all new laws, regulations, decisions, and rulings of general application pertaining to its foreign trade, and for the transmittal of these publications to the Organization. This information is presumably available to Member governments, but there is no explicit provision that it should be made accessible to private traders. The Committee wishes to point out the tremendous convenience of a central clearinghouse for current information on foreign trade regulations, and to express the hope that arrangements can be made to open the current records to responsible and interested nongovernmental bodies.

29. The Committee believes that certain important features of international commercial relations have been omitted from this Suggested Charter. We count it essential that the ITO provide safeguards for the protection and nondiscriminatory treatment of the properties and investments held by the nationals of one Member in the territories of another Member. In addition, we feel that the Charter should establish conventions for the protection of patents, trademarks and copyrights. We strongly favor the inclusion of such provisions in the final Charter. This matter is being considered by the U. S. Associates Committee on the Flow of Capital, which will make detailed recommendations in its forthcoming report.

30. Lest the foregoing comments be misinterpreted, and counted as unduly critical of the Suggested Charter, or unduly pessimistic as to the likelihood of success of the proposed ITO, the Committee desires to conclude its report with this general restatement of its position:

We believe that the objectives sought by this Charter are eminently desirable, and that the economic health and well-being of the entire world would be fostered by the expansion of international trade towards which it strives. Ideally, this trade should be conducted on a nondiscriminatory basis among nations, and should be predominately in the hands of private traders. National policies concerned with domestic economic problems should not seek solution through the export of unemployment to neighboring areas. Instead, in domestic as well as in foreign policy, nations must now recognize their economic inter-dependence and their mutual interests. This is a goal. We recognize that as a heritage of war the world is faced with grave dislocations, many of which require the temporary adoption of restrictions and corrective measures which run counter to the long run welfare of all nations. But these measures to meet the imbalances of the early post-war transition period must be recognized as temporary. Lest they become established patterns it is essential to name the dates when they must end, and thus to make possible the inauguration of plans that look to the day of freer and more extensive international trade. The pattern of pre-war restrictions can be the starting-point from which the process of negotiated mutual concessions can progressively carry us towards this goal. The proposed ITO, grounded on the reciprocal accommodations expected of the Interim Tariff Com-

mittee, is designed to provide a realistic vehicle to serve these ends. Though we count it far from perfect, though we have misgivings as to the propriety and the effectiveness of some of its provisions, and though we are sure that other interested groups will likewise express reservations to their approval, we are convinced that no accumulation of specific objections can belie the fundamental need for such an international effort. Changes in detail are indicated; many compromises will be required before its acceptance can be assured. We must face the possibility that some nations may so cherish some of their short run favored positions that they will be blinded to the more enduring advantages of the ITO and be reluctant to accept membership. Notwithstanding that danger, we believe that the policies that give rise to this Charter and that conceived the *modus operandi* of this proposed international organization merit our fullest support. We, and our counterparts throughout the world, must accept this as a challenge, testing our willingness and ability to engage in positive international cooperation.

EXHIBIT VII

COMPARISON OF LONDON AND NEW YORK DRAFTS OF PROPOSED INTERNATIONAL TRADE ORGANIZATION CHARTER

ARTICLES AS DRAFTED AT THE LONDON MEETING, OCTOBER 15–NOVEMBER 26, 1946, BY THE PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT	ARTICLES AS DRAFTED BY THE DRAFTING COMMITTEE AT THE NEW YORK MEETING JANUARY 20–FEBRUARY 25, 1947, FOR CONSIDERATION AT THE SECOND SESSION OF THE PREPARATORY COMMITTEE MEETING AT GENEVA, SWITZERLAND, IN APRIL 1947
CHAPTER I. PURPOSES	CHAPTER I. PURPOSES
ARTICLE 1. GENERAL PURPOSES OF THE ORGANIZATION	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.

LONDON DRAFT

NEW YORK DRAFT

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.

CHAPTER II. MEMBERSHIP

ARTICLE 2. MEMBERSHIP

1. The original Members of the Organization shall be those countries represented at the United Nations Conference on Trade and Employment which accept the provisions of this Charter by December 31, 194__ or, in the event that this Charter has not entered into force by that date, the countries which agree to bring this Charter into force pursuant to the proviso to paragraph 3 of article 88.

2. Membership in the Organization shall be open to such other countries as accept the provisions of this Charter, subject to the approval of the Conference.

3. The Conference shall establish procedures that will open a membership in the Organization to the United Nations on behalf of the trust territories for which the United Nations is the administrating authority.

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

ARTICLE 3. RELATION OF EMPLOYMENT TO THE PURPOSE OF THE ORGANIZATION

1. Members recognize that the avoidance of unemployment or underemployment through the achievement and maintenance in each country of useful employment opportunities for those able and willing to work and of high and steadily rising effective demand for

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 underemployment 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 de-

LONDON DRAFT	NEW YORK DRAFT
goods and services is not of domestic concern alone, but is a necessary condition for the expansion of international trade and, in general, for the realization of the purposes of the Organization. They also recognize that measures to sustain demand and employment should be consistent with the other purposes and provisions of the Organization, and that in the choice of such measures, each country should seek to avoid creating balance of payments difficulties for other countries.	mand 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. They 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, be supplemented by international action sponsored by the Economic and Social Council of the United Nations and carried out in collaboration with the appropriate intergovernmental organizations, acting within their respective spheres and consistently with the terms and purposes of their basic instruments.	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. THE MAINTENANCE OF DOMESTIC EMPLOYMENT	ARTICLE 4. MAINTENANCE OF DOMESTIC EMPLOYMENT
Members shall take action designed to achieve and maintain full and productive employment and high and stable levels of effective demand within their own jurisdictions through measures appropriate to their political and economic institutions and compatible with the other purposes of the Organization.	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 6. FAIR LABOR STANDARDS	ARTICLE 5. FAIR LABOUR STANDARDS
Members, recognizing that all countries have a common interest in the maintenance of fair labor standards, related to national productivity, agree to take whatever action may be appropriate and feasible to eliminate substandard conditions of labor in production for export and generally throughout their jurisdiction.	Each Member, recognising 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 substandard conditions of labour in production for export and generally throughout its jurisdiction.
ARTICLE 7. THE REMOVAL OF MALADJUSTMENTS IN THE BALANCE OF PAYMENTS	ARTICLE 6. THE REMOVAL OF MALADJUSTMENTS IN THE BALANCE OF PAYMENTS
Members agree that in case of a fundamental disequilibrium in their bal-	Members agree that, in case of a fundamental disequilibrium in their

LONDON DRAFT

ance 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 8. SAFEGUARDS FOR COUNTRIES SUBJECT TO EXTERNAL DEFLATIONARY PRESSURE

The Organization shall have regard, in the exercise of the functions as defined in the other articles of this Charter, to the need of Members to take action within the provisions of the 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 9. CONSULTATION AND EXCHANGE OF INFORMATION ON MATTERS RELATING TO EMPLOYMENT

Members agree to participate in arrangements undertaken or sponsored by the Economic and Social Council of the United Nations, including arrangements with the appropriate intergovernmental organizations:

(*a*) for the regular 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; and

(*b*) for consultation with a view to concerted action on the part of governments and intergovernmental organizations in the field of employment policies.

NEW YORK DRAFT

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-governmenal organizations in the field of employment policies.

LONDON DRAFT	NEW YORK DRAFT
CHAPTER IV. ECONOMIC DEVELOPMENT	CHAPTER IV. ECONOMIC DEVELOPMENT
ARTICLE 10. IMPORTANCE OF ECONOMIC DEVELOPMENT	ARTICLE 9. IMPORTANCE OF ECONOMIC DEVELOPMENT IN RELATION TO THE PURPOSE OF THIS CHARTER
Members recognize that the industrial and general economic development of all countries and in particular of those countries whose resources are as yet relatively undeveloped will improve opportunities for employment, enhance the productivity of labor, increase the demand for goods and services, contribute to economic stability, expand international trade, and raise levels of real income, thus strengthening the ties of international understanding and accord.	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 5. THE DEVELOPMENT OF DOMESTIC RESOURCES AND PRODUCTIVITY	ARTICLE 10. DEVELOPMENT OF DOMESTIC RESOURCES AND PRODUCTIVITY
Members, recognizing that all countries have a common interest in the productive use of the world's resources, agree to take action designed progressively to develop economic resources and to raise standards of productivity within their jurisdiction through measures compatible with the other purposes of the Organization.	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	ARTICLE 11. PLANS FOR ECONOMIC DEVELOPMENT
1. Members undertake to promote the continuing industrial and general economic development of their respective countries and territories in order to assist in realizing the purposes of the Organization. 2. Members agree that they will cooperate through the Economic and Social Council of the United Nations and the appropriate intergovernmental organizations in promoting industrial and general economic development. (3. The Organization, at the request of any Member, shall advise such Member concerning its plans for economic development and, within its competence and resources, shall provide such Member with technical assistance in completing its plans and carrying out its programs.)[1]	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 may, in accordance with the principles of this Chapter, consult with and make recommendations to Members and appropriate inter-governmental organizations relating to the encouragement of the industrial and general economic development of Member countries.

[1] This paragraph was adopted provisionally by the Preparatory Committee pending receipt of advice (before the spring meeting of the Preparatory Committee) from the Economic and Social Council as to whether it was in accordance with the Council's views on the appropriate allocation of functions among the various specialized international agencies.

LONDON DRAFT

ARTICLE 12. MEANS OF ECONOMIC DEVELOPMENT

1. Members recognize that progressive economic development is dependent upon the availability of adequate supplies of:

(a) capital funds; and

(b) materials, equipment, advanced technology, trained workers and managerial skill.

2. Members agree to impose no unreasonable impediments that would prevent other Members from obtaining access to facilities required for their economic development.

3. Members agree to cooperate within the limits of their power to do so, with the appropriate intergovernmental organizations of which they are members in the provision of such facilities.

4. Members agree that, in their treatment of other Members, business entities, or persons supplying them with facilities for their industrial and general economic development, not only will they conform to the provisions of their relevant international obligations, now in effect, or which they may undertake pursuant to article 61 (5) or otherwise, but also that in general they will take no unreasonable action injurious to the interest of such other Members, business entities, or persons.

5. The Organization shall receive from any affected Member, or with the permission of that Member from business entities or persons within its jurisdiction, complaints that action by another Member is inconsistent with its obligations under paragraphs 2, 3, or 4. In the event of such complaint, the Organization may, at its discretion, re-

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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.

LONDON DRAFT	NEW YORK DRAFT
quest the Members concerned to enter into consultation with a view to reaching a mutually satisfactory settlement and lend its good offices to this end.	
ARTICLE 13. GOVERNMENTAL ASSISTANCE TO ECONOMIC DEVELOPMENT	ARTICLE 13. GOVERNMENTAL ASSISTANCE TO ECONOMIC DEVELOPMENT
1. 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.	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 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. Members recognize that an unwise use of such protection 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 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.
3. (a) If a Member, in the interest of its program of development, purposes to employ any protective measures which would conflict with any of its obligations under of pursuant to the Charter, it shall inform the Organization and shall transmit to the Organization any finding in support of this proposal. The Organization shall promptly inform those Members whose trade would be substantially affected by the	

LONDON DRAFT

proposal and afford them an opportunity to present their views. The Organization shall then promptly examine the proposal in the light of the provisions of this chapter, the findings presented by the applicant Member, the views presented by Members substantially affected, 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 Member.

(*b*) If, as a result of its investigations pursuant to subparagraph (*a*), the Organization determines upon any measure which would be inconsistent with any obligation that the applicant Member has assumed through negotiation with other Members pursuant to chapter V or would reduce the benefit to such other Members of any such obligation, the Organization shall sponsor and assist in negotiations between the applicant Member and other Members substantially affected, with a view to obtaining substantial agreement. Upon such agreement being reached the Organization may release the applicant Member from the obligation in question or from any other relevant obligation under the Charter, subject to such limitations as the Organization may impose.

(*c*) If, as a result of its investigations pursuant to subparagraph (*a*), the Organization concurs in any measure other than those covered in subparagraph (*b*), which would be inconsistent with any obligation assumed under this Charter the Organization may, in its discretion, release the applicant Member from the obligation in question subject to such limitations as the Organization may impose.

NEW YORK DRAFT

(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, with a view to obtaining substantial agreement. Upon such agreement being reached the Organization may release the applicant Member from the obligation in question 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 Organization may impose.

(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 subparagraph (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 sub

LONDON DRAFT

NEW YORK DRAFT

stantially 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 the 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 toward the Member applying the restrictions as the Organization may specify.

LONDON DRAFT

CHAPTER V. GENERAL COMMERCIAL POLICY

Section A. General Commercial Provisions

ARTICLE 14. GENERAL MOST-FAVORED-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 affected by the provisions relating to national treatment in article 15, any advantage, favor, privilege, or immunity granted by any Member country 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.

2. The provisions of paragraph 1 of this article shall not be construed to require the elimination of any preferences in respect to customs duties and other charges imposed on importation which do not exceed the preferences remaining after the negotiations contemplated in article 24, and which fall within the descriptions set forth in (*a*), (*b*), or (*c*) below:

(*a*) Preferences in force exclusively

(i) between territories in respect of which there existed on July 1, 1939 common sovereignty or relations of protection or suzerainty, or

(ii) between the territories comprised in Annexure A to this Charter.

Each Member to which provision (i) applies shall provide a list of such territories, which lists shall be incorporated in a further annexure.

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

(*c*) Preferences in force on July 1, 1946, exclusively between neighboring countries.

NEW YORK DRAFT

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.

LONDON DRAFT	NEW YORK DRAFT
ARTICLE 15. NATIONAL TREATMENT ON INTERNATIONAL TAXATION AND REGULATION	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 higher than those imposed, directly or indirectly, on like products of national origin.
	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 to 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].

LONDON DRAFT

NEW YORK DRAFT

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, exit 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 customshouse, 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 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 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 intransit 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

LONDON DRAFT

NEW YORK DRAFT

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 (*expedition 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 17. ANTIDUMPING AND COUNTERVAILING DUTIES

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

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NEW YORK DRAFT

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.

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

LONDON DRAFT

NEW YORK DRAFT

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.

LONDON DRAFT

NEW YORK DRAFT

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 cousular 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

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.

LONDON DRAFT

NEW YORK DRAFT

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 cooperation 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.

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 mark 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

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

LONDON DRAFT

NEW YORK DRAFT

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.

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 therefor, 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.

LONDON DRAFT

ARTICLE 22. INFORMATION, STATISTICS AND TRADE TERMINOLOGY

NEW YORK DRAFT

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 fulfill 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.

LONDON DRAFT

NEW YORK DRAFT

6. The Organization may also, in co-operation 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

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. Tariffs and Tariff Preferences

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ARTICLE 24. REDUCTION OF TARIFFS AND ELIMINATION OF PREFERENCES

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 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-favored-nation import tariffs shall operate automatically to reduce or eliminate margins of preference.

(*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.

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(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.

LONDON DRAFT

2. Each Member participating in negotiations pursuant to paragraph 1 of this article 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 fulfil its obligations under paragraph 1, such Member may refer the matter to the Organization, which shall investigate the matter 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, 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 withhold 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. 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 60 days after such action is taken, to withdraw from the Organization upon the expiration of 60 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.

Section C. Quantitative Restrictions and Exchange Control

ARTICLE 25. GENERAL ELIMINATION OF QUANTITATIVE RESTRICTIONS

1. Except as otherwise provided elsewhere in this Charter, no prohibition or restriction, other than duties, taxes, or other charges, whether made effective through quotas, import licenses, or other measures, shall be imposed or maintained by any Member on the importation of any product of any other Member or on the exportation or sale for export of any product destined for any other Member.

NEW YORK DRAFT

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 withhold 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.

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.

LONDON DRAFT

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

(*a*) Prohibitions or restrictions on imports or exports imposed 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, or,

(ii) the maintenance of wartime price control by a country undergoing shortages subsequent to the war, or

(iii) the orderly liquidation of temporary surpluses of stocks owned or controlled by the government of any Member or of industries developed in the territory of any Member owning to the exigencies of the war which it would be uneconomic to maintain in normal conditions:

Provided, that restrictions under (iii) of this subparagraph may be imposed by any Member only after consultation with other interested Members with a view to appropriate international action. Import and export prohibitions and restrictions imposed or maintained under this subparagraph shall be removed as soon as the conditions giving rise to them have ceased, and in any event, not later than July 1, 1949: *Provided*, that this period may, with the concurrence of the Organization, be extended in respect of any product for further periods not to exceed six months each.

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

(*c*) Import and export prohibitions or restrictions necessary to the application of standards for the classification and grading of commodities in international commerce. If, in the opinion of the Organization, the standards adopted by a Member under this subparagraph 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.

NEW YORK DRAFT

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.

Import and export prohibitions and restrictions instituted or maintained under sub-paragraph (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 Organization, 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 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 ac-

LONDON DRAFT

NEW YORK DRAFT

cordance 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 subparagraph 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) 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. Members may need import restrictions as a means of safeguarding their external financial position and as a step towards the restoration of equilibrium on a sound and lasting basis, particularly in view of their increased demand for the imports needed to carry out their domestic employment, reconstruction, development or social policies. Accordingly, notwithstanding the provisions of article 25, Members may restrict the quantity or value of merchandise permitted to be imported so far as this is necessary to safeguard their balance of payments and monetary re-

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

LONDON DRAFT

serves. The use of import restrictions under this paragraph shall conform to the conditions and requirements set out in paragraphs 2, 3, and 4.

2. Members undertake to observe the following principles in the use of such restrictions:

(*a*) To refrain from imposing new or intensifying existing restrictions except to the extent necessary (having due regard to any special factors which may be affecting the level of the Members' reserves, to any commitments or other circumstances which may be affecting its need for reserves, or to any special credits or other resources which may be available to protect its reserves):

(i) to stop or to forestall the imminent threat of a serious decline in the level of monetary reserves; or

(ii) in the case of a Member with very low monetary reserves to achieve a reasonable rate of increase in its reserves.

(*b*) To eliminate the restrictions when conditons would no longer justify the imposition of new restrictions under subparagraph (*a*), and to relax them progressively as such conditions are approached.

(*c*) Not to carry the imposition of new import restrictions or the intensification of existing restrictions under subparagraph (*a*) to the point at which it involves the complete exclusion of imports of any class of goods.

(*d*) Export or import quotas imposed under intergovernmental 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.

(*f*) Any Member imposing restrictions on the importation of any product pursuant to subparagraph (*e*) shall give public notice of the total quantity or value of the product permitted to be imported during a specified period and of any change in such quantity or value (*provided* that any supplies of the product in question which were en

NEW YORK DRAFT

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 their institution [or maintenance] under subparagraph (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.

LONDON DRAFT

route at the time at which public notice was given shall not be excluded but may be counted, so far as practicable, against the quantity permitted to be imported in the period in question).[2] Moreover, any restrictions imposed under (i) of subparagraph (*c*) 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.

(*g*) Import and export prohibitions or restrictions imposed 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, and 33.

3. (*a*) Any Member which, while not imposing restrictions under paragraphs 1 and 2, is considering the need for the imposition of restrictions, before imposing such restrictions (or, in conditions in which previous consultation is impracticable, as soon as possible after imposing such restrictions) shall 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 which is imposing import restrictions under paragraphs 1 and 2 to consult with it about the form and extent of the restrictions, and shall invite a Member substantially intensifying such restrictions to consult accordingly within 30 days. Members agree to participate in such discussions when so invited. In the conduct of such discussions the Organi-

NEW YORK DRAFT

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 Organ-

[2] The Preparatory Committee recommended that the words in parentheses in 2 (*f*) should be retained only if the matter was not fully covered in art. 21.

LONDON DRAFT

zation shall consult the International Monetary Fund and any other appropriate intergovernmental organization, in particular in regard to the alternative methods available to the Member in question of meeting its balance of payments difficulties. The Organization under this subparagraph shall, within two years of its institution, review all restrictions existing at its institution and subsequently maintained under paragraphs 1 and 2.

(*c*) Any Member applying or intending to apply restrictions on imports under paragraphs 1 and 2 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. 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, imposition, or intensification of import restrictions by the Member in question 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 subparagraph (*d*) so far as it relates to conformity with paragraphs 1 and 2.

(*d*) Any Member which considers that any other Member is applying import restrictions under paragraphs 1 and 2 in a manner inconsistent with the provisions of those paragraphs or of articles 27 or 28, or in a manner which unnecessarily damages its commercial interests, may ring the matter for discussion to the Organization. The Member imposing the restrictions shall then participate in discussion of the reasons for its action. The Organization shall, if it is satisfied that there is a *prima facie* case that the complaining Member's interests are adversely affected, consider the complaint. It may then, after consultation with the International Monetary Fund on any matter falling within the competence of the Fund, 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 or of articles 27 or 28, or in a manner which unnecessarily damages the commercial interests of another

NEW YORK DRAFT

ization 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 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

LONDON DRAFT	NEW YORK DRAFT
Member. If restrictions are not withdrawn or modified in accordance with the recommendation of the Organization within 60 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.	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.
(*c*) The Organization in reaching its decision under subparagraph (*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. Members agree, however, that in carrying out such domestic policies they will pay due regard to the need to restore sound and lasting equilibrium in their balances of payments.	(c) 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 imposed under this article, a Member may select imports for restriction on the grounds of essentiality in such a way as to promote its domestic employment, reconstruction, development, or social policies. In so doing the Member shall avoid all unnecessary damage to the commercial interest of other Members and will accept an invitation to consult with any other Member which considers its interests to be so damaged.	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 quantitative 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 International Monetary Fund, initiate discussions to consider whether other measures might not be taken, either by those countries whose balances of payments are under pressure or by those countries whose balances of payments are tending to be exceptionally favorable, or by any appropriate intergovernmental agency or organisation* to remove the underlying causes of the disequilibrium. Members agree that they will take part in such discussions.	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.

*The words "intergovernmental agency or organisation" are intended to cover the Economic and Social Council of the United Nations.

LONDON DRAFT	NEW YORK DRAFT
6. Throughout this section the phrase "quantitative import restrictions" includes the restriction of imports by state-trading organizations to an extent greater than that which would be permissible under article 32 (provided that no Member shall be required to disclose information which would hamper the commercial operations of such a state-trading organization).[4]	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. Members recognize that in the early years of the Organization all of them will be confronted, in varying degrees, by 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.
ARTICLE 27. NONDISCRIMINATORY ADMINISTRATION OF QUANTITATIVE RESTRICTIONS	ARTICLE 27. NON-DISCRIMINATORY ADMINISTRATION OF QUANTITATIVE RESTRICTIONS
1. Subject to the provisions of article 28, no prohibition or restriction shall be applied by any Member pursuant to this section on the importation of any product of any other Member, or on the exportation of any product destined for any other Member 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.	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. Pursuant to the principle set forth in paragraph 1, Members undertake in applying import restrictions to observe the provisions:	2. Members shall observe the following provisions in applying import restrictions:
(*a*) Wherever practicable, global quotas (whether allocated among supplying countries or not) should be fixed, and notice given of their amount in accordance with subparagraph 3 (*b*).	(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 in the result of international competition in the absence of such restrictions.
(*b*) Where global quotas are not practicable, import restrictions may be applied by means of import licenses without a global quota.	(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*) Import licenses or permits which may be issued in connection with import restrictions (whether or not within the limits of global quotas) shall not, save for purposes of operating quotas allo-	(c) In cases in which quotas are not practicable, the restrictions may be applied by means of import licenses or permits without a quota.

[4] The Preparatory Committee recommended that the words in parentheses should be retained only if the matter is not adequately covered in the articles dealing with state-trading organisations.

LONDON DRAFT	NEW YORK DRAFT
cated in accordance with subparagraph (*d*), require or provide that the license or permit be utilized for the importation of the product concerned from a particular country or source.	
(*d*) In cases where these methods of licensing are found impracticable or unsuitable, the Member concerned may apply the restrictions in the form of a quota allocated among supplying countries. In that event, the shares of the various Member supplying countries 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 Member applying the restrictions may seek agreement with respect to the allocation of shares in the quota with all other Members having substantial interest in supplying the product concerned. In cases where this method is not reasonably practical, the Member concerned should allot, to Member countries having a substantial interest in supplying the product, shares based upon the proportions of the total quantity or value of the product supplied by such Member countries during a previous representative period, due account being taken of any special factors which may have affected or be affecting the trade in the product.	(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) of this paragraph) require or provide that the license or permit be utilized for the importation of the product concerned from a particular country or source.
(*e*) No conditions or formalities shall be imposed which would prevent any Member country from utilising 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.	(e) In cases in which a quota is allocated among applying 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 utilising fully the share of any such total quantity or value which has been allotted to it, sub-

LONDON DRAFT

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 as to the administration of the restriction and as to the import licenses granted over a past recent period and on 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 (whether or not allocated among supplying countries), 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.

(*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.

4. With regard to restrictions imposed in accordance with subparagraph 2 (*d*) or under subparagraph 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 imposing the restriction:

Provided, that such Member shall upon the request of any other Member having a substantial interest in supplying that

NEW YORK DRAFT

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.

4. With regard to restrictions applied in accordance with paragraph 2 (c) of this Article or under paragraph 2 (c) 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

LONDON DRAFT

product, or upon the request of the Organization consult promptly with the other Member or with 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.

ARTICLE 28. EXCEPTIONS FROM THE RULE OF NONDISCRIMINATION

1. The provisions of his section shall not preclude:

(*a*) restrictions with equivalent effect to exchange restrictions authorized under article VII, section 3 (*b*) of the Articles of Agreement of the International Monetary Fund;

(*b*) prohibitions or restrictions in accordance with subparagraphs 2 (*a*) (i) or 2 (*d*) of article 25;

(*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 26 which either:

(i) are applied otherwise consistently with article 27 against imports from other countries by a group of territories with common quota in the International Monetary Fund, or

(ii) assist in the period until December 31, 1951, by measures not involving substantial departure from the provisions of article 27, a country whose economy has been disrupted by war, or *both*

(iii) provide a Member with additional imports above the maximum total of imports which it could afford in the light of the conditions in paragraph 2 of article 26 if its restrictions were consistent with article 27, *and*

(iv) 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

NEW YORK DRAFT

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;

LONDON DRAFT

made between the Member and the Organization under article 29.

Provided, that a Member which is not imposing restrictions on payments and transfers for current international transactions may apply import restrictions under section (iii) 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, the Member shall within 60 days remove the discriminations or modify them as specified by the Organization:

Provided, that a Member may, if it so desires, consult with the Organization to obtain its previous approval for discriminations, under the procedure set forth in subparagraph 3 (*c*) of article 26 and to the extent that such approval is given, the discriminations shall not be open to challenge under this paragraph.

3. When three quarters of the Members of the Organization have accepted the obligations of article VIII of the Articles of Agreement of the International Monetary Fund, but in any event before December 31, 1951, the Organi-

NEW YORK DRAFT

(c) 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 Decem-

LONDON DRAFT	NEW YORK DRAFT
zation shall review the provisions of this article, in consultation with the International Monetary Fund, with a view to the earliest possible elimination of discriminations under subparagraphs 1 (*d*) (iii) and (iv) of this article, which restrict the expansion of world trade.	ber 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 20. EXCHANGE ARRANGEMENTS	ARTICLE 20. EXCHANGE ARRANGEMENTS
1. The Organization shall seek cooperation with the International Monetary Fund to the end that the Fund and the Organization may pursue a coordinated 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.	1. The Organization shall seek cooperation with the International Monetary Fund to the end that the Organization and the Fund may pursue a coordinated 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 agree that they will not seek by exchange action to frustrate the purposes of this Charter, and that they will not seek by trade action to frustrate the purposes of the Articles of Agreement of the International Monetary Fund.	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;[a] *Provided*, (that any country which is willing to join the Organization but is unwilling to join the International Monetary Fund may become a Member of the Organization if it enters into a special exchange agreement with the Organization which would become part of its obligations 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.	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 Organiaztion 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.

[a] With respect to this paragraph the Preparatory Committee reported:
"It was agreed that the problem would be much simplified if all Members of the Organization were also Members of the International Monetary Fund. The Committee came to no decision on the question of requiring common membership, however, as some of the delegations felt it may well be necessary to allow freely for independent membership of the Organization and the Fund.
"Consideration was therefore given to the question whether special provision should not be made for a country which wished to become a Member of the Organization without becoming a Member of the Fund. It was generally recognized that some such provision might prove to be necessary, but it was thought that examination of this issue could usefully wait until the probable membership of the Organization and the Fund became clearer. Pending this further examination, the Draft Article 20 in the Appendix to this Report has been expressed in a way which implies that Members of the Organization would in general be expected to be Members of the Fund, but that means could be provided for non-members of the Fund to join the Organization."

LONDON DRAFT

4. A special exchange agreement between a Member and the Organization under paragraph 3 must provide to the satisfaction of the Organization, in collaboration 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.

5. A Member which has made a special exchange agreement under paragraph 3 of this article undertakes to furnish the Organization with such information as 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 this special exchange agreement.

6. The Organization shall seek and accept the opinion of the International Monetary Fund 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. Except as provided in paragraphs 2 and 4 of this article, if any Member establishes or maintains any subsidy, including any form of income or price support, to the domestic producers of any product, which operates to increase the exports of such product from, or to reduce the imports of such product into its territory, such Member shall notify the Organization in writing as to the extent and nature of the subsidization, as to the anticipated effect of the subsidization on the quantity of the product imported into and exported from the territory of the Member, and as to the conditions making the subsidization necessary. In any case in which it is determined that serious prejudice to the interest of any Member is caused or threatened by the operation of any such subsidization, the Member granting such subsidization shall undertake to discuss with the other Member or Members concerned, or with the Organization, the possibility of limiting the subsidization.

2. Except as provided in paragraph 4, no Member shall grant, directly or in-

NEW YORK DRAFT

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 purpose 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 price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, the Member shall notify the Organization 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 Member country and as to the conditions making the subsidization necessary. In any case in which it is determined that serious prejudice to the interest of any other Member is caused or threatened by any such subsidization, the Member granting the subsidization shall, upon request, discuss with the other Member or Members concerned, or with the Organization, the possibility of limiting the subsidization.

2. (a) No Member shall grant, directly or indirectly, any subsidy on the

LONDON DRAFT	NEW YORK DRAFT
directly, any subsidy on the exportation of any product, or establish or maintain any other system which results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, due allowance being made for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability. The preceding sentence shall not be construed to prevent any Member from exempting exported products from duties or taxes imposed in respect of like products when consumed domestically or from remitting such duties or taxes which have accrued. The use of the proceeds of such duties or taxes to make payments to domestic producers would be considered as a case under paragraph 1. 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 a notice in writing to that effect, accompanied by a complete analysis of the practices in question and the facts justifying them and an indication as to the extension of the period desired. It shall then be determined whether the extension requested should be made.	exportation of any product, or establish or maintain any other system, which results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, due allowance being made for differences in the conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability, *Provided* that this shall not prevent any Member from exempting exported products from duties or taxes imposed in respect of like products when consumed domestically, from remitting such duties or taxes which have accrued, or from using the proceeds of such duties or taxes to make payments to domestic producers; (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.
3. A system for the stabilization of the domestic price of a primary product, which sometimes results in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, may be determined by the Organization not to be a subsidy on exportation under the terms of paragraph 2 if it has at times resulted in the sale of the product for export at a price higher than the comparable price charged for the like product to domestic buyers and if the system is so operated, either because of the effective limitation of production or otherwise, as not to unduly stimulate exports or otherwise seriously prejudice the interest of other members.[6]	3. A system for the stabilization of the domestic price or of returns to domestic producers of a primary product, which results over a period in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, may be determined not to involve a subsidy on exportation under the terms of paragraph 2 of this Article if it has also resulted over a period in the sale of the product for export at a price higher than the comparable price charged for the like 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 seriously prejudice the interest of other Members.

[6] The Preparatory Committee reported that "the new paragraph 3 would render it possible for interested Members, in consultation with the Organization, to operate a domestic stabilization scheme for a primary product if the stabilized domestic price is at times below the export price and if, through effective production controls or otherwise, the scheme operated so as not to prejudice the interest of Members. Some delegations thought that this was implicit in paragraph 2 and that the explicit exemption in paragraph 3 might render it more difficult to apply paragraph 2 so as to cover other legitimate exceptions." Hence the Preparatory Committee indicated in its report that suggestions might be forthcoming to cover explicitly other exceptional cases.

LONDON DRAFT

4. (*a*) In any case of subsidization of a primary commodity, whether falling under paragraph 1 or paragraph 2, if a Member considers that its interest is seriously prejudiced by the subsidy or if the Member granting the subsidy considers itself unable to comply with the provisions of paragraph 2 within the time limit laid down therein, the difficulty may be deemed 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 subparagraph (*a*) have not succeeded, 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 concerned, the requirements of paragraphs 1 and 2 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 determined in accordance with procedures approved by the Organization.

(*c*) Notwithstanding the provisions of paragraph 2 and subparagraph 4 (*b*), no Member shall grant any subsidy on the exportation of any primary 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 Member 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 regarding the need for an adjustment of the base period selected or for the reappraisal of the special factors involved.

5. Any determination required by or appropriate to the operation of this article shall be made under procedures established by the Organization in accordance with paragraph 6 of article 66.

NEW YORK DRAFT

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 succeeded, 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 concerned, 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 determined in accordance with procedures approved by the Organization.

5. Notwithstanding the provisions of paragraph 2 and sub-paragraph 4 (b) of this Article, 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

LONDON DRAFT

NEW YORK DRAFT

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 Member 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 regarding 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 appropriate 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

Section E. State Trading

ARTICLE 31. NONDISCRIMINATORY ADMINISTRATION OF STATE-TRADING ENTERPRISES

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 distributes any product, or if any Member grants exclusive or special privileges, formally or in effect, to any enterprise to import, export, purchase, sell, (distribute or produce)[1] any product, (and exercises effective control over the trading operations of such enterprise) the commerce of the other Members shall be accorded treatment no less favorable 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 enterprises 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, and also differential customs treatment. The Member maintaining such state enterprise or granting exclusive or special privileges to an enterprise shall make available such information as may be

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

[1] The words "distribute, or produce" are placed in parentheses for the reason that certain delegations considered that it should be possible for the government of a Member country to confer exclusive or special privileges upon certain types of enterprise without at the same time exercising effective control over the trading operations of such enterprise. The clause "and exercises effective control over the trading operations of such enterprise" is also included in parentheses so as to make the point of view of these delegations clear. Other delegations, however, considered that in such circumstances it would be proper that the government conferring the exclusive or special privileges should assume the responsibility of exercising effective control over operations affecting the external trade of such enterprise.

LONDON DRAFT	NEW YORK DRAFT
appropriate in connection with the consultation provided for in article 35.	
2. The foregoing provisions of this article relate to purchases by state enterprises for re-sale. With respect to purchases by state enterprises for governmental use and not for re-sale, Members agree to accord to the commerce of other Members fair and equitable treatment having full regard to all relevant circumstances.	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. For the purposes of this article, a state enterprise shall be understood to be any enterprise over whose operations the government of a Member exercises effective control.	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.
ARTICLE 32. EXPANSION OF TRADE BY STATE MONOPOLIES OF INDIVIDUAL PRODUCTS	ARTICLE 32. EXPANSION OF TRADE BY STATE MONOPOLIES OF INDIVIDUAL PRODUCTS
1. If any Member (other than a Member subject to the provisions of Article 33 [6] establishes, maintains or authorizes, formally or in effect, a complete or substantially complete monopoly of the importation or exportation of any product, such Member shall, upon the request of any other Member or Members having an interest in trade with that Member in the product concerned, enter into negotiations with such Member or Members, in the manner provided for in respect of tariffs under article 24, with regard to:	1. If any Member, other than a Member subject to the provisions of Article 33, establishes, maintains or authorizes, formally or in fact, an effective monopoly of the importation or exportation of any product, such Member shall, upon the request of any other Member or Members having an interest in trade with that Member in the product concerned, enter into negotiations with such Member or Members in the manner provided for in respect of tariffs under 24, with regard to (a) in the case of an export monopoly, arrangements designed to limit or reduce the protection afforded through the operation of the monopoly to domestic users of the monopolized product or to assure exports of the monopolized product in adequate quantities at reasonable prices; or (b) in the case of an import monopoly, the maximum margin by
(a) in the case of an import monopoly, the maximum margin by which the price for an imported product charged by the monopoly in the home market may exceed the landed cost, before payment of any duty, of such product purchased by the monopoly from suppliers in the territories of Members; or	

[6] The clause in parentheses, referring to art. 33, was provisionally removed since the Preparatory Committee postponed consideration of art. 33.

LONDON DRAFT

(b) in the case of an export monopoly, the maximum margin by which the price for a product charged by the monopoly to purchasers in the territories of such Members may exceed the price for such product charged by the monopoly in the home market after due allowance in either case for internal taxes, transportation, distribution and other expenses incident to purchase, sale or further processing, and a reasonable margin of profit. For the purpose of applying these margins regard may be had, in respect of imports, to average landed costs and selling prices of the monopoly and, in respect of exports, to average prices charged by the monopoly for exports and sales in the home market respectively, over recent periods.

2. Members newly establishing any such monopoly in respect of any product shall not create a margin as defined above greater than that represented by the maximum rate of import or export duty which may have been negotiated in regard to that product pursuant to Article 24. With regard to any monopolized product in respect of which a maximum margin has been established pursuant to this article, the monopoly shall as far as practicable and subject to the other provisions of this Charter

(i) import from Members and offer for sale at prices charged within such maximum margins 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 of the product to consumers which may be in force at that time, and

(ii) in the case of an export monopoly, offer for sale to purchasers in the territories of Members at prices charged within such maximum margins quantities of the product to the fullest extent that they can be made available for exportation.

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

NEW YORK DRAFT

which the price for an imported product charged by the monopoly in the home market may exceed the landed cost, before payment of any duty, of such product purchased by the monopoly from suppliers in the territories of Members, 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.

2. Any Member newly establishing any import monopoly in respect of any product shall not create a margin as defined in paragraph 1 (b) greater than that represented by the maximum rate of import duty which may have been negotiated in regard to that product pursuant to Article 24.

3. With regard to any monopolized product in respect of which a maximum margin has 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

LONDON DRAFT

NEW YORK DRAFT

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. EXPANSION OF TRADE BY COMPLETE STATE MONOPOLIES OF IMPORT TRADE

[Any Member establishing or maintaining a complete or substantially complete monopoly of its import trade shall promote the expansion of its foreign trade with the other Members in consonance with the purposes of this Charter. To this end such Member shall negotiate with the other Members an arrangement under which, in conjunction with the granting of tariff concessions by such other Members, and in consideration of the other benefits of this Chapter, it shall undertake to import in the aggregate over a period products of the other Members valued at not less than an amount to be agreed upon. This purchase arrangement shall be subject to periodic adjustment.]

Section F. Emergency Provisions—Consultation

Section F. Emergency Provisions—Consultation

ARTICLE 34. EMERGENCY ACTION ON IMPORTS OF PARTICULAR PRODUCTS

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 similar products (or, in the case of a product which is the subject of a concession with respect to the preference, to producers in a territory which receives or received such preference), the Member shall be free to withdraw the concession, or suspend the obligation, in respect of such product, in whole or in part, or to modify the consession 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, it shall give notice in writing to the Organization as far in advance as may be practicable and shall afford the Organization, and the other Members having a substantial interest as

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 in-

LONDON DRAFT

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. 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 other affected Members shall then be free, not later than 60 days after such action is taken, to suspend, upon the expiration of 60 days from the date 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 oppose. In serious cases the Organization may authorize an affected Member to suspend concessions or obligations in addition to those which may be substantially equivalent to the action originally taken.

ARTICLE 35. CONSULTATION—NULLIFICATION OR IMPAIRMENT

1. Each Member will accord sympathetic consideration to, and will afford adequate opportunity for consultation regarding, such representations as may be made by any other Member with respect to the operations of customs regulations and formalities, quantita-

NEW YORK DRAFT

terest 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 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-

LONDON DRAFT	NEW YORK DRAFT
tive and exchange regulations, 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.	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, provide 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 has adopted any measure, whether or not it conflicts with the terms of this Charter, or that any situation has arisen, which has the effect of nullifying or impairing any object of this Charter, the 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 other appropriate intergovernmental organization, 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 60 days after such action is taken, to withdraw from the Organization upon the expiration of 60 days from the date on which written notice by the Organization of such withdrawal is received.	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	*Section G. Relations With Non-Members*
ARTICLE 36. CONTRACTUAL RELATIONS WITH NON-MEMBERS—TREATMENT OF TRADE OF NON-MEMBERS	ARTICLE 36. CONTRACTUAL RELATIONS WITH NON-MEMBERS. TREATMENT OF THE TRADE OF NON-MEMBERS
Section H. General Exceptions	*Section H. General Exceptions*
ARTICLE 37. GENERAL EXCEPTIONS TO CHAPTER V	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

LONDON DRAFT

NEW YORK DRAFT

between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in Chapter V shall be construed to prevent the adoption or enforcement by any Member 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 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

Section I. Territorial Application

ARTICLE 38. TERRITORIAL APPLICATION OF CHAPTER V—CUSTOMS UNIONS—FRONTIER TRAFFIC

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

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.

LONDON DRAFT	NEW YORK DRAFT
2. The provisions of Chapter V shall not be construed to prevent:	2. The provisions of Chapter V shall not be construed to prevent:
(*a*) advantages accorded by any Member country to adjacent countries in order to facilitate frontier traffic; or	(a) Advantages accorded by any Member to adjacent countries in order to facilitate frontier traffic; or
(*b*) the formation of a union for customs purposes of any customs territory of any Member country and any other customs territory:	(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.
Provided, that the duties and other regulations of commerce imposed by any such union in respect of trade with other Member countries 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 any union described in subparagraph 2 (*b*) shall consult with the Organization and shall make available to the Organization such information regarding the proposed union as will enable the Organization to make such reports and recommendations to Members as it may deem appropriate.	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 be subject to approval by the Organization pursuant to paragraph 2 of Article 66.	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 area within which separate tariffs or other regulations of commerce are maintained with respect to a substantial part of the trade of such area. A union of customs territories for customs purposes 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.	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	CHAPTER VI. RESTRICTIVE BUSINESS PRACTICES
ARTICLE 39. POLICY TOWARD RESTRICTIVE BUSINESS PRACTICES	ARTICLE 39. POLICY TOWARDS RESTRICTIVE BUSINESS PRACTICES
1. Members agree to take appropriate measures, individually and through the	1. Members shall take appropriate measures, individually or through the

LONDON DRAFT	NEW YORK DRAFT
Organization, to prevent, in international trade, business practices 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 on any of the purposes of the Organization as set forth in article 1.	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, Members agree that the practices listed in paragraph 3 below, when they are engaged in or are made effective by	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*) an international combination, agreement, or other arrangement among commercial enterprises, including such an arrangement among private commercial enterprises, among public commercial enterprises (i. e. trading agencies of government or enterprises in which there is effective government control), or between private and public commercial enterprises;	(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*) one or more private commercial enterprises	(b) Such commercial enterprises, individually or collectively, possess effective control of trade among a number of countries in one or more products.
and when such commercial enterprises, individually or collectively, possess effective control of international trade, among a number of countries or generally in one or more products, shall be subject to investigation, in accordance with the procedure provided by the subsequent articles of this chapter, if the Organization considers them to have or to be about to have such harmful effects as are described in paragraph 1.	
3. The practices referred to in paragraph 2 are as follows:	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;	(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 markets or field of business activity, allocating customers, or fixing sales or purchase quotas;	(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*) boycotting or discriminating against particular enterprises;	(c) Discriminating against particular enterprises whether by boycott or otherwise;
(*d*) limiting production or fixing production quotas;	(d) Limiting production or fixing production quotas;

LONDON DRAFT

(*e*) suppressing 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, 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

Members agree that the Organization shall:

1. Arrange, if it considers such action to be justified, for particular Members to take part in a conference requested by any Member who considers that any specific practices exist which have or are about to have the effect described in paragraph 1 of article 39.

2. Consider each written complaint submitted by any Member or, with the permission of a Member, submitted by any affected person, organization, or business entity within that Member's jurisdiction, claiming that specific prac-

NEW YORK DRAFT

(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

LONDON DRAFT

tices 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.

3. Request each Member concerned to obtain such information as the Organization may deem necessary, including, for example, statements from commercial enterprises within its jurisdiction, and then determine whether further investigation is justified.

4. If it is considered 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 it may deem necessary and conduct or arrange for hearings at which any Member, and the parties alleged to have engaged in the practice, will have opportunity to be heard.

5. Review all information and come to its findings whether the practices in question have the effect described in paragraph 1 of article 39.

6. Report to all Members the findings reached and the information on which such findings are based; if it finds that the practices have had the effect described in paragraph 1 of article 39, request each Member concerned to take

NEW YORK DRAFT

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 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.

every possible action to prevent the continuance or recurrence of the practices, and at its discretion recommend to the Members concerned remedial measures to be carried out in accordance with their respective laws and procedures.

7. Request all Members concerned to report fully the action they have taken to achieve these results.

8. Prepare and publish, as expeditiously as possible after enquiries have been completed, reports on all complaints dealth with under paragraph 4, showing fully the findings reached, the information on which such findings are based, and the action which Members concerned have been recommended to take; *Provided* that publication of such reports or of any portion thereof may be withheld if it deems this course justified; *Provided* also that the Organization shall not, if a Member so requests, disclose to any person confidential information furnished by that Member which would materially damage the legitimate business interests of a commercial enterprise.

9. Report to all Members, and make public if it is deemed desirable, the action which has been taken by the Members concerned to achieve the results described in paragraph 6.

ARTICLE 41. STUDIES RELATING TO RESTRICTIVE BUSINESS PRACTICES

The Organization shall be authorized to:

1. Conduct studies, either on its own initiative or at the request of any Member, or the United Nations, or any specialized agency brought into relationship with the United Nations, relating to

(*a*) types of restrictive business practices in international trade;

(*b*) conventions, laws, and procedures such as those concerning incorporation, company registration, investments, securities, prices, markets, fair trade practices, trade-marks, copyrights, patents, and the exchange and development of technology, insofar as they are relevant to restrictive business practices, and to request information from Members in connection with such studies;

2. Make recommendations to Members concerning such conventions, laws, and procedures as are relevant to their obligations under this Charter.

3. Arrange conferences, when requested by Members, for purposes of general consultation on any matters relating to restrictive business practices.

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.

LONDON DRAFT

ARTICLE 42. OBLIGATION OF MEMBERS

In order to implement the preceding articles in this chapter, each Member undertakes to:

1. Take all possible steps by legislation or otherwise to insure that private and public commercial enterprises within its jurisdiction to not engage in practices which have the effect described in paragraph 1 of article 39; and

2. Take the fullest account of the Organization's findings, requests, and recommendations made under paragraph 6 of article 40, in the light of its obligations under article 39, in considering the initiation of 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 finds to have had the effect described in paragraph 1 of article 39.

NEW YORK DRAFT

ARTICLE 42. OBLIGATIONS 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 determine 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, these measures to be taken in accordance with the particular system of law and economic organization of the country concerned;

(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, 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

LONDON DRAFT

3. 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, these measures to be taken in accordance with the particular system of law and economic organization of the Member concerned.

4. 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.

5. Furnish to the Organization, as promptly as possible and to the fullest extent feasible, such information as is requested by the Organization under paragraphs 3, 4, and 7 of article 40 and under paragraph 1 of article 41; *provided* that confidential information affecting national security or production technique may be withheld.

6. Report, as requested by the Organization under paragraph 7 of article 40, the action taken, independently or in concert with other Members, to implement recommendations made by the Organization under paragraph 6 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.

7. Take part in conferences upon the request of the Organization in accordance with paragraph 3 of article 41.

ARTICLE 42. SUPPLEMENTARY ENFORCEMENT ARRANGEMENTS

1. Members may, by mutual accord, cooperate with each other in prohibitive, preventive, or other measures for

NEW YORK DRAFT

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

LONDON DRAFT

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 such co-operative actions shall notify the Organization.

ARTICLE 44. CONTINUED EFFECTIVENESS OF DOMESTIC MEASURES AGAINST RESTRICTIVE BUSINESS PRACTICES

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

ARTICLE 45. EXCEPTIONS TO PROVISIONS OF THIS CHAPTER

1. The undertakings expressed in this chapter shall not apply to

(*a*) intergovernmental commodity agreements meeting the requirements of chapter VII.

(*b*) the international agreements excepted in article 59.

2. Notwithstanding the foregoing, the Organization may in its discretion make recommendations to Members and to appropriate intergovernmental organizations concerning any features of the agreements referred to in subparagraph 1 (*b*) which may have the effect described in paragraph 1 of article 89.

CHAPTER VII. INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

Section A. General Considerations

ARTICLE 46. GENERAL STATEMENT OF 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 a seriously adverse effect on the interests of both producers and consumers. Moreover, they may have wide-spread repercussions which would jeopardize the general policy of economic expansion.

NEW YORK DRAFT

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 statute 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 89.

CHAPTER VII. INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS

Section A. Inter-governmental Commodity Arrangements in General

ARTICLE 46. DIFFICULTIES RELATING TO PRIMARY COMMODITIES

The Members recognise 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 jeopardising general policies of economic expansion.

LONDON DRAFT

ARTICLE 47. OBJECTIVES OF INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

The Members agree that intergovernmental commodity arrangements may be employed to achieve the following objectives:

1. To enable countries to find solutions to the special commodity difficulties referred to in article 46 without resorting to action inconsistent with the purposes of the Charter.

2. 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.

3. 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 overexpanded industries into new and productive occupations.

4. 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.

5. To maintain and develop the natural resources of the world and protect them from unnecessary exhaustion.

6. To provide for expansion in the production of a primary commodity which is in such short supply as seriously to prejudice the interests of consumers.

NEW YORK DRAFT

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 affected 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 such short supply as seriously to prejudice the interests of consumers.

Section B. Intergovernmental Commodity Arrangements in General

ARTICLE 48. SPECIAL COMMODITY STUDIES

1. A Member or Members substantially interested in the production, consumption, or trade of a particular primary commodity shall be entitled, if they consider 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, consumption, or trade of 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.

ARTICLE 48. SPECIAL COMMODITY STUDIES

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 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.

LONDON DRAFT	NEW YORK DRAFT
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 for 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 Members any such findings and recommendations.	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	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 problem 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 intergovernmental conference for the purpose of discussing measures designed to meet the special difficulties which have been found to exist or are expected to arise.	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, consumption, or trade of the commodity shall be entitled to participate in the Conference, and non-members having a similar interest may be invited by the Organization.	2. Any Member having a substantial interest in the production or 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.
3. If the Conference recommends to Members the adoption of any type of intergovernmental commodity arrangement, such arrangement shall conform to the principles stated in article 51.	
ARTICLE 50. RELATIONS WITH SPECIALIZED AGENCIES	ARTICLE 50. RELATIONS WITH INTER-GOVERNMENTAL ORGANIZATIONS
1. Competent specialized agencies, 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.	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 specialized agency which it deems to be competent to attend or take part in the work of a Study Group or of a Commodity Conference.	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.

LONDON DRAFT

ARTICLE 51. GENERAL PRINCIPLES OF INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

Members undertake to adhere to the following principles governing the operation of all types of intergovernmental commodity arrangements:

1. Such arrangements shall be open initially to participation by any Member on terms no less favorable than those accorded to any other country party thereto and thereafter upon such terms as may be approved by the Organization.

2. Non-members may be invited by the Organization to participate in such arrangements, and the provisions of paragraph 1 shall apply to any non-members so invited.

3. 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.

4. 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.

5. Such arrangements shall provide, where practicable, for measures designed to expand world consumption of the commodity.

6. Members agree that full publicity shall be given to any inter-governmental commodity arrangement proposed or concluded, to the statements of considerations and objectives advanced by the proposing Members, to the operation of the arrangements, and to the nature and development of measures adopted to correct the underlying situation which gave rise to the arrangement.

NEW YORK DRAFT

ARTICLE 51. GENERAL PRINCIPLES OF INTERGOVERNMENTAL 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 inter-governmental 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.

LONDON DRAFT	NEW YORK DRAFT
Section C. Intergovernmental Commodity Agreements Involving the Regulation of Production, Trade, or Prices	*Section B. Intergovernmental Commodity Arrangements Involving the Regulation of Production, Trade or Prices*
ARTICLE 52. CIRCUMSTANCES GOVERNING USE OF REGULATORY AGREEMENTS	ARTICLE 52. CIRCUMSTANCES GOVERNING USE OF REGULATORY AGREEMENTS
Members agree that regulatory agreements may be employed only when:	Members agree that regulatory agreements may be employed only when it is determined that:
1. 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 among whom are small producers who account for a substantial portion of the total output; or	(a) a burdensome surplus of a primary commodity has developed or is expected to develop, which would cause serious hardship to producers, among whom are small producers who account for a substantial portion of the total output, and these conditions cannot be corrected by normal market forces alone, 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
2. Wide-spread unemployment in connection with a particular 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 marketing forces alone in time to prevent wide-spread and undue hardship to workers because, in the case of the industry concerned, a substantial reduction of price does not 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	(b) widespread unemployment or underemployment 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 would not be corrected by normal market forces alone 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
3. The Organization finds that, for a commodity other than a primary commodity, exceptional circumstances justify such action.	(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 subparagraph shall be governed not only by the principles set forth in this Chapter but also by any other requirements which the Organization may establish.
Such agreements shall be subject not only to the principles set forth in this chapter but also to any other requirements which the Organization may establish.	
ARTICLE 53. ADDITIONAL PRINCIPLES GOVERNING REGULATORY AGREEMENTS	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:	Members undertake to adhere to the following principles governing regulatory agreements in addition to those stated in Article 51:
1. Members agree not to enter into any new regulatory agreement unless it has been recommended by a conference called in accordance with article 49.	(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.

LONDON DRAFT

Nevertheless, Members substantially interested in the production, consumption, of trade of a particular primary 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.

2. Under such agreements participating countries shall afford equitable treatment as between non-participating Members and participating countries, giving equitable advantages in return for the observance of equitable obligations.

3. Participating countries shall, in matters the subject of such agreements, afford non-participating Members countries treatment no less favorable than that accorded to any non-Member country which does not participate in the agreement.

4. Such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at reasonable prices.

5. 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 most effectively and economically.

6. Participating countries shall formulate and adopt a program 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 a governing body, hereinafter referred to as a Commodity Council.

2. Each of the countries participating in an agreement shall be entitled to be represented by a member on the Commodity Council. These members alone shall have the right to vote. Their voting power shall be determined in such a way as to conform with the provisions of paragraph 4 of article 51.

NEW YORK DRAFT

Nevertheless, Members substantially interested in the production or 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 involved 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 53.

LONDON DRAFT	NEW YORK DRAFT
3. The Organization shall be entitled to appoint a non-voting member to each Commodity Council, and may invite any competent specialized agency to nominate a non-voting member for appointment to a Commodity Council.	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.	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.	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. These rules and regulations shall be subject to the approval of 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.	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.	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	ARTICLE 55. PROVISION FOR INITIAL TERMS, REVIEW AND RENEWAL OF REGULATORY AGREEMENTS
Regulatory agreements shall be in effect for not more than five years. Their renewal shall be subject to the principles stated elsewhere in this chapter. 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, each commodity agreement shall provide that if its operations have 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 over archives, statistical material, and other possessions of the Commodity Council.	No regulatory agreement 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 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.

LONDON DRAFT

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 subject to the provisions of article 80.

Miscellaneous provisions

ARTICLE 57. OBLIGATIONS OF MEMBERS REGARDING EXISTING AND PROPOSED ARRANGEMENTS

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

2. Members undertake to transmit to the Organization appropriate information regarding any negotiations looking to the conclusions of an intergovernmental commodity arrangement, in which they are participating at the time of the coming into force of their obligations under this Charter. Members also agree to conform with decisions made by the Organization regarding their continued participation in any such negotiations; and the Organization may declare that such negotiations conform to the requirements for a Study Group or a Commodity Conference as the case may be.

ARTICLE 58. GENERAL UNDERTAKING BY MEMBERS

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

NEW YORK DRAFT

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.

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 intergovernmental 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.

LONDON DRAFT

ARTICLE 59. EXCEPTIONS TO PROVISIONS RELATING TO INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

1. The provisions of chapter VII are not designed to cover intergovernmental commodity arrangements which relate solely to the equitable distribution of commodities in short supply or to cover those provisions of intergovernmental 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 agree not to participate in such arrangements if they involve the regulation of production, trade, or prices unless they are authorized or provided for by a multilateral convention subscribed to by a majority of the nations affected, or unless operated under the Organization.

2. None of the foregoing provisions of chapter VII is to be interpreted as applying 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 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, a primary commodity is any agricultural product or mineral which enters world trade in substantial volume in a form customarily called primary. The term "primary commodity" may include a primary commodity on which minor processing has been performed in preparation for export. It may also include a group of primary commodities which are so closely related to one another that they can conveniently be dealt with in a single arrangement. Such a group may, subject to paragraph 3 of article 52, include appropriate non-primary commodities.

2. For the purposes of this chapter, the term "Member" or "non-member"

NEW YORK DRAFT

ARTICLE 59. EXCEPTIONS TO PROVISIONS RELATING TO INTERGOVERNMENTAL 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 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; 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"

LONDON DRAFT

shall, where it is appropriate, be taken to mean a Member or non-member 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. An intergovernmental commodity arrangement is any accord between two or more governments relating to a commodity other than an accord relating to the purchase and sale of a commodity falling under section E of chapter V.

4. A regulatory agreement is an intergovernmental commodity arrangement involving regulation of the production, export, or import of a commodity or regulation of prices. "

CHAPTER VIII. ORGANIZATION

Section A. Functions and Structure of the Organization

ARTICLE 61. FUNCTIONS OF THE ORGANIZATION

It shall be the function of the Organization:

1. To collect, analyze, and publish information relating to international trade, including information relating to commercial policy, business practices, and commodity problems and to industrial and general economic development.

2. To provide technical assistance and advice to Members and to the United Nations and other international organizations, including such assistance and advice as may be appropriate in connection with specific projects of industrialization or other economic development.

3. To consult with and to make recommendations and reports to Members regarding any matter relating to the purposes of the Organization or the operation of this Charter, including the following:

(*a*) Recommendations or determinations relating to the discharge of the responsibilities of the Organization, or of the Members, under chapter V.

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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.

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, analyse 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;

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(b) Recommendations as to measures for implementing the objectives with regard to restrictive business practices set forth in chapter VI.

(c) Recommendations regarding the application to commodity arrangements under consideration by Members of the principles governing commodity arrangements set forth in chapter VII and recommendations initiating proposals for new commodity arrangements, or proposing such modifications, including termination of commodity arrangements already concluded, as may be deemed appropriate under the commodity principles and in the general interest.

(d) Recommendations as to measures for implementing the objectives of the Organization in encouraging and assisting the industrial and general economic development of Members.

4. To consult with Members regarding disputes growing out of the provisions of this Charter and to provide for the settlement of such disputes.

5. To make recommendations for, and promote the acceptance by Members of, international agreements 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 agreements on the treatment of foreign nationals and enterprises, on the treatment of commercial travelers, on commercial arbitration, and on the avoidance of double taxation.

6. To achieve an economy of effort in the performance of the functions set out in this article and to cooperate with the United Nations and with other intergovernmental organizations, generally, in the attainment of the economic and social objectives of the United Nations and in the restoration and maintenance of international peace and security.

7. Generally to advise and to make recommendations to Members and other international organizations, and to perform any other function appropriate to the purposes of the Organization.

ARTICLE 62. STRUCTURE OF THE ORGANIZATION

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

NEW YORK DRAFT

(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.

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

ARTICLE 64. VOTING

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

ARTICLE 65. SESSIONS, PROCEDURE, AND OFFICERS

1. The Conference shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall 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 Members of the Organization and to other international organizations regarding any matter pertaining to the purposes of the Organization.
2. The Conference may, by the affirmative votes of two thirds of its Members, determine criteria and set up procedures for waiving, in exceptional circumstances, obligations of Members undertaken pursuant to this Charter.
3. The Conference may delegate to the Executive Board authority to exercise or perform any of the powers and duties of the Conference, except such specific powers and duties as are expressly conferred or imposed upon the Conference.

[1] See footnote to art. 68.

NEW YORK DRAFT

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.

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.

London Draft	New York Draft
4. The Conference shall approve the budget of the Organization and shall apportion the expenses of the Organization among the Members.	4. The Conference shall establish procedures for making the determinations provided for in Article 30 and in Article 52, whereby any such determinations shall be made through the Organization by consultation among the Members substantially interested in the product concerned.
5. The Conference may develop and, by the affirmative votes of two thirds of its Members, recommend for their acceptance, conventions and agreements with respect to any matter within the competence of the Organization. Each Member undertakes that it will, within 18 months after such recommendation by the Conference, make a decision upon it. Each Member shall notify the Director General of the action taken and, in the event of rejection of such recommendation, shall furnish a statement of the reasons therefor.	5. The Conference shall establish procedures for making the determinations, decisions and recommendations provided for in paragraph 3 (c) and (d) of Article 20, paragraph 1 (e) (1) and paragraph 2 of Article 28, paragraph 2 of Article 34 and Article 35.
6. The Conference shall establish procedures for making the determinations provided for in article 30 and in paragraph 3 of article 52 whereby any such determinations shall be made through the Organization by consultation among the Members having an important interest in the trade in the product concerned.	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 nonacceptance, shall furnish a statement of the reasons therefor.
7. The Conference shall establish procedures for making the determinations and recommendations provided for in subparagraph 3 (*d*) of article 26; paragraph 2 of article 34; and article 35.	7. The Conference shall approve the budget of the Organization, and shall apportion the expenditure of the Organization among the Members.
8. The Conference may, by the affirmative votes of two-thirds of its members present and voting, adopt the standards, nomenclature, terms, and forms described in paragraph 7 of article 22.	
9. The Conference shall determine the site of the Organization and shall establish such branch offices as it may consider desirable.	8. The Conference shall determine the site of the Organization and shall establish such branch offices as it may consider desirable.
Section C. Interim Tariff Committee	*Section C. Tariff Committee*
ARTICLE 67. INTERIM TARIFF COMMITTEE	ARTICLE 67. TARIFF COMMITTEE
1. There shall be an Interim Tariff Committee which shall act temporarily on behalf of the Organization in the making of recommendations and determinations pursuant to paragraph 3 of article 24.	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.
2. The Committee shall consist originally of those Members of the Organization which shall have made effective the General Agreement on Tariffs and	2. The Committee shall consist originally of those Members of the Organization which shall have made effective the General Agreement on Tariffs and

LONDON DRAFT

Trade dated __ ___, 194...[2] 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. When the number of Members of the Organization which are members of the Committee shall constitute two thirds of the total number of Members of the Organization, the Committee shall terminate and its functions shall be transferred to the Conference.

3. Each member of the Committee shall have one vote.[3]

4. Decisions of the Committee shall be taken by a majority of the members present and voting.

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

Section D. The Executive Board

ARTICLE 68. MEMBERSHIP[4]

First Alternative

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, 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.

NEW YORK DRAFT

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.[5]

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.

[2] This agreement refers to the proposed arrangement for the concerted reduction of tariffs and trade barriers among the countries invited by the United States to enter into negotiations for this purpose. It is contemplated that the agreement would contain schedules of tariff concessions and would incorporate certain of the provisions of chap. V of the Charter (e. g. the provisions relating to most-favored-nation treatment, to national treatment on internal taxes and regulations, to quantitative restrictions, etc.).

[3] See footnote to art. 68.

[4] At the meeting of the Preparatory Committee it was suggested that some formal provision might be made in the Charter whereby differences in importance in international trade of individual Members would be reflected in the measure of control that they would exercise over the affairs of the International Trade Organization. In this connection the Committee discussed the possibility of providing for (a) weighted voting or (b) permanent seats on the Executive Board for more important trading countries.

[5] With respect to voting (see par. 1 of art. 64, par. 3 of art. 67, and par. 1 of art. 69) the majority of delegations favored in principle the system of one vote for each country, but several who did so expressed willingness to consider alternatives.

In the case of art. 68, above, with respect to membership on the Executive Board, alternative drafts were presented. Many points were raised in the course of discussion, however, which would involve modification, in one way or another, of each of the alternatives, or the formulation of new ones.

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

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 of this article, one third of the members of the Executive Board shall be elected each year for a term of three years.

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 representative.

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 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.

Fourth Alternative

1. The Executive Board shall consist of 20 Members of the Organization.

2. Subject to the provisions of paragraph 3 of this article 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

NEW YORK DRAFT

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

LONDON DRAFT

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.

ARTICLE 69. VOTING

1. Each member of the Executive Board shall have one vote.[1]

2. Decisions of the Executive Board shall be made by a majority of members present and voting.

ARTICLE 70. SESSIONS, PROCEDURES, 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.

[1] See footnote to art. 68.

NEW YORK DRAFT

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.

LONDON DRAFT

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 by the Conference. It shall supervise the 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 as it relates to industrialization and general economic development.

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

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

4. The Executive Board may refer to the commissions such questions as it may deem appropriate.

Section E. The 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. These commissions shall be responsible to the Executive Board.

ARTICLE 73. COMPOSITION AND PROCEDURE

1. The commissions shall be composed of persons invited by the Executive Board and qualified by training or experience to carry out the functions of the commissions in accordance with the purposes of the Organization.

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 adopt its own rules of procedure, subject to approval by the Executive Board.

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

NEW YORK DRAFT

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 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. The 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.

LONDON DRAFT

5. As set forth more fully in paragraph 2 of article 81, the Organization may make arrangements for representatives of other intergovernmental organizations having a special interest in the activities of any of the commissions to participate in the work of such commissions, pursuant to agreements with these organizations.

ARTICLE 74. GENERAL FUNCTIONS

The commissions shall have the functions set forth in articles 75, 76, and 77, and shall perform such other 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.

ARTICLE 75. FUNCTIONS OF THE COMMISSION ON COMMERCIAL POLICY

ARTICLE 76. FUNCTIONS OF THE COMMISSION ON BUSINESS PRACTICES

The Commission on Business Practices shall have the following functions:

1. In accordance with article 40 to:

(*a*) Arrange, at the request of a Member, consultative conferences with other Members and make appropriate reports for communication at the discretion of the Executive Board to all Members;

(*b*) Receive and consider written complaints concerning restrictive business practices in international trade;

(*c*) Prescribe minimum information required in such complaints;

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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.

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

LONDON DRAFT	NEW YORK DRAFT
(*d*) Notify Members of complaints received and request information relative to such complaints;	under this Charter, insofar as they relate to Restrictive Business Practices.
(*e*) Request further data from Members and conduct or arrange for hearings;	
(*f*) Report to the Executive Board its findings and its recommendations of remedial measures;	
(*g*) Request reports from Members on the action taken as a result of recommendations made to them by the Executive Board; and	
(*h*) Prepare reports for publication by the Executive Board.	
2. In accordance with article 41, and subject to the approval of the Executive Board, to conduct studies relating to business practices which restrain competition, restrict access to markets, or foster monopolistic control in international trade, or relating to international conventions or national laws and procedures designed to carry out the objectives of article 40 or to those which may effect such objectives, and to make recommendations when appropriate to the Executive Board for action by Members.	
3. To advise the Executive Board as to information and other materials to be obtained from Members or other sources in the discharge of the duties and responsibilities of the Commission.	
4. To perform such other functions pursuant to the objectives of chapter VI as may be assigned to it from time to time by the Executive Board.	
ARTICLE 77. FUNCTIONS OF THE COMMODITY COMMISSION[6]	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	*Section F. The Secretariat*
ARTICLE 78. COMPOSITION	ARTICLE 78. COMPOSITION
1. The Secretariat shall consist of a Director General and such staff as may be required.	1. The Secretariat shall consist of a Director-General and such staff as may be required.

[6] The Preparatory Committee did not draft an article on this subject, but annexure B, which is taken from the Preparatory Committee's report, shows what the Committee envisaged the functions of the Commodity Commission would be.

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2. The Director General shall have authority to appoint such Deputy Directors General as he deems necessary. Such appointments shall be made 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. His powers, duties, terms, and conditions of office shall be in accordance with regulations approved by the Conference. He shall be the chief administrative officer of the Organization, subject to the general supervision of the Executive Board.

2. The Director General or a deputy designated by him shall participate, without the right to vote, in all meetings of the Conference, of the Executive Board, of the Commissions, and of committees of the Organization. The Director General shall have authority to initiate proposals for the consideration of any organ of the Organization. He shall make an annual report to the Conference and to the Executive Board on the work of the Organization and shall prepare the annual budget 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 staff 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 specialized agencies which may be brought into relationship with the United Nations, as provided in article 57 of the Charter of the United Nations.

NEW YORK DRAFT

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.

LONDON DRAFT

Section G. Miscellaneous provisions

ARTICLE 81. RELATIONS WITH OTHER ORGANIZATIONS

1. The Organization shall be brought into relationship with the United Nations, as soon 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 an 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. Notwithstanding the provisions of article 85, any changes in this Charter required under the agreement which do not involve new obligations by Members shall be effective on approval of the agreement by the Conference.

2. The Organization shall cooperate with other intergovernmental organizations whose interests and activities are related to its purposes. 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. Formal arrangements for cooperation with such organizations may be entered into by the Executive Board.

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 this Organization and the competent authorities of any other international organization whose purposes and functions lie within the competence of this 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

NEW YORK DRAFT

Section G. Miscellaneous provisions

ARTICLE 81. RELATIONS WITH OTHER ORGANIZATIONS

1. The Organization shall be brought into relationship with the United Nations as soon 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 co-operate with the other inter-governmental organizations having related interests and activities. Arrangements for co-operation 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 co-operation, may be established by the Director-General.

3. The Organization may make suitable arrangements for consultation and co-operation 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

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and assume such functions of, or incorporate or exercise such control over, such other organization as may be provided by any convention or agreement appropriate to the purpose. In accordance with their respective constitutional procedures the Members shall 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 members of the commissions provided for in article 72, of the Director General, of the Deputy Directors 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. Each Member of the Organization undertakes to respect the international character of the responsibilities of these persons, and not to seek to influence them in the discharge of their duties.

ARTICLE 83. LEGAL CAPACITY OF THE ORGANIZATION

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

ARTICLE 84. PRIVILEGES AND IMMUNITIES OF THE ORGANIZATION

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the Organization and its officials shall similarly enjoy such privileges and immunities as are 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 para-

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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 para-

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graphs 1 and 2 and may propose conventions to the Members for this purpose.	graphs 1 and 2 of this Article and may propose conventions to the Members for this purpose.
ARTICLE 85. AMENDMENTS TO THE CHARTER	ARTICLE 85. AMENDMENTS TO THE CHARTER
1. Amendments to this Charter shall become effective upon receiving the approval of the Conference by the affirmative votes of two thirds of its Members.	1. Any amendment to this charter which does not involve new obligations on the part of Members shall become effective upon receiving the approval of the Conference by the affirmative votes of two-thirds of the Members.
2. Notwithstanding the provisions of paragraph 1, those amendments which involve new obligations on the part of the Members of the Organization shall take effect upon acceptance on the part of two thirds of the Members for each Member accepting the amendments and thereafter for each remaining Member on acceptance by it. In such cases, the Conference may determine that any Member which has not accepted the amendment, within a period specified by the Conference, shall thereupon be obliged to withdraw from the Organization. In the absence of a determination that a Member shall be obliged to withdraw, a Member shall, notwithstanding the provisions of paragraph 1 of article 89, have the right to withdraw on due notice as provided in paragraph 2 of that article.	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 its Members, adopt rules of procedure for carrying out the provisions of this article.	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	ARTICLE 86. INTERPRETATION AND SETTLEMENT OF DISPUTES
1. The Chinese, English, French, and Spanish texts of this Charter shall be regarded as equally authoritative.	1. The texts of this Charter in the official languages of the United Nations shall be equally authoritative.
2. Any question or difference concerning the interpretation of this Charter or arising out of its operation shall be referred to the Executive Board for a ruling thereon. The Executive Board may decide either to give a ruling on the matter itself or to refer it, with the consent of the parties, to arbitration upon such terms as may be agreed by the parties. Any ruling of the Executive Board shall, upon the request of any Member directly affected or, if the ruling is of general application, upon the request of any Member, be referred to the Conference.	2. Any question or differences concerning the interpretation of this Charter or arising out of its operation shall be referred to the Executive Board for a ruling thereon. The Executive Board may decide either to give a ruling on the matter itself, or to refer it, with the consent of the parties, to arbitration upon such terms as may be agreed by the parties. Any ruling of the Executive Board shall, upon the request of any Member directly affected or, if the ruling is of general application, upon the request of any Member, be referred to the Conference.
3. Any justiciable issue arising out of a ruling of the Conference with respect to the interpretation of subparagraphs	3. Any justiciable issue arising out of a ruling of the Conference with respect to the interpretation of sub-para-

LONDON DRAFT

(c), (d), (e), or (k) of article 37 or of paragraph 2 of article 59 may be submitted by any party to the dispute to the International Court of Justice, and any justiciable issue arising out of any other ruling of the Conference may, in accordance with such procedures as the Conference shall establish, be submitted by any party to the dispute to the International Court of Justice. The Members accept the jurisdiction of the Court in respect of any dispute submitted to the Court under this article.

4. The Organization may, in accordance with paragraph 2 of article 96 of the Charter of the United Nations, request from the International Court of Justice advisory opinions on legal questions arising within the scope of its activities.

ARTICLE 87. PAYMENT OF CONTRIBUTION

Each Member undertakes to contribute promptly to the Organization its share of the Organization's expenses 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 Conference 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 Members of the United Nations of the date of deposit of each instrument of acceptance and of the date on which this Charter enters into force under paragraph 3.

3. This Charter shall enter into force on the sixtieth day following the day on which the number of governments rep-

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graphs (c), (d), (e), or (k) of Article 87 or of paragraph 2 of Article 59 may be submitted by any party to the dispute to the International Court of Justice, and any justiciable issue arising out of any other ruling of the Conference may, in accordance with such procedures as the Conference shall establish, be submitted by any party to the dispute to the International Court of Justice. The Members accept the jurisdiction of the Court in respect of any dispute submitted to the Court under this Article.

4. The Organization may, in accordance with paragraph 2 of Article 96 of the Charter of the United Nations, request from the International 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 rep-

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sented at the United Nations Conference on Trade and Employment which have deposited acceptance pursuant to paragraph 2 shall reach 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 December 31, 194_, any of the governments which have made effective the General Agreement on Tariffs and Trade dated _____, 1947,[1] 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.	resented at the United Nations Conference on Trade and Employment which have deposited instruments of acceptance pursuant to paragraph 2 of this Article shall reach 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 _____ 194 , 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 the oversea 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 the Charter on behalf of any such self-governing territory willing to undertake the obligations of the Charter, and upon such notification the provisions of the Charter shall become applicable to that territory.	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	ARTICLE 89. WITHDRAWAL AND TERMINATION
1. Any Member of the Organization may withdraw from the Organization, either on its own behalf or on behalf of an oversea territory which is self-governing in the respect mentioned in paragraph 4 of article 88, at any time after the expiration of three years from the date of the entry into force of this Charter under the provisions of article 88, by written notification addressed to	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

[1] The footnote to par. 3 of art. 87 describes this agreement.

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the Secretary-General of the United Nations in accordance with the provisions of paragraph 2. The Secretary-General will immediately inform all other Members of the Organization.	Director-General. The Director-General shall immediately notify all other Members.
2. The withdrawal shall take effect six months from the date of the receipt of the notification by the Secretary-General: *Provided*, that the notification may be withdrawn at any time during that period.	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 of the Organization.	3. This Charter may be terminated at any time by agreement of three-fourths of the Members.

EXHIBIT VIII–A

[Pamphlet]

CHARTER OF THE UNITED NATIONS

TOGETHER WITH THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

(Signed at the United Nations Conference on International Organization, San Francisco, California, June 26, 1945)

CONTENTS

	Page
Charter of the United Nations	1155
Chapter	
I. Purposes and Principles	1156
II. Membership	1156
III. Organs	1157
IV. The General Assembly	1157
V. The Security Council	1159
VI. Pacific Settlement of Disputes	1161
VII. Action With Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression	1162
VIII. Regional Arrangements	1164
IX. International Economic and Social Cooperation	1164
X. The Economic and Social Council	1165
XI. Declaration Regarding Non-Self-Governing Territories	1166
XII. International Trusteeship System	1167
XIII. The Trusteeship Council	1169
XIV. The International Court of Justice	1170
XV. The Secretariat	1170
XVI. Miscellaneous Provisions	1172
XVII. Transitional Security Arrangements	1172
XVIII. Amendments	1173
XIX. Ratification and Signature	1173
Statute of the International Court of Justice	1174

CHARTER OF THE UNITED NATIONS

We the peoples of the United Nations determined

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal right of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom, and for these ends

to practice tolerance and live together in peace with one another as good neighbors, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

have resolved to combine our efforts to accomplish these aims.

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations to do hereby establish an international organization to be known as the United Nations.

CHAPTER I. PURPOSES AND PRINCIPLES

ARTICLE 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

ARTICLE 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II. MEMBERSHIP

ARTICLE 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

ARTICLE 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.
2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

ARTICLE 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

ARTICLE 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III. ORGANS

ARTICLE 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.
2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

ARTICLE 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV. THE GENERAL ASSEMBLY

Composition

ARTICLE 9

1. The General Assembly shall consist of all the Members of the United Nations.
2. Each Member shall have not more than five representatives in the General Assembly.

Functions and Powers

ARTICLE 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

ARTICLE 11

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.
2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of

the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

ARTICLE 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

ARTICLE 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.

ARTICLE 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

ARTICLE 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

ARTICLE 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

ARTICLE 17

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine

the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

Voting

ARTICLE 18

1. Each member of the General Assembly shall have one vote.
2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the nonpermanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.
3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

ARTICLE 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly 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.

Procedure

ARTICLE 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

ARTICLE 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

ARTICLE 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V. THE SECURITY COUNCIL

Composition

ARTICLE 23

1. The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republic, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.
2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.
3. Each member of the Security Council shall have one representative.

Functions and Powers

ARTICLE 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.
2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.
3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

ARTICLE 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

ARTICLE 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

Voting

ARTICLE 27

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Procedure

ARTICLE 28

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

ARTICLE 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

ARTICLE 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

ARTICLE 31

Any Member of the United Nations which is not a member of the Security Council may participate without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

ARTICLE 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI. PACIFIC SETTLEMENT OF DISPUTES

ARTICLE 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

ARTICLE 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

ARTICLE 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

ARTICLE 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend apropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

ARTICLE 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommand such terms of settlement as it may consider appropriate.

ARTICLE 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

Chapter VII. Action With Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for com-

bined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

ARTICLE 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

ARTICLE 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

ARTICLE 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

ARTICLE 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

ARTICLE 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

ARTICLE 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Chapter VIII. Regional Arrangements

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility, for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

Chapter IX. International Economic and Social Cooperation

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

a. higher standards of living, full employment, and conditions of economic and social progress and development;

b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

ARTICLE 58

The Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies.

ARTICLES 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Articles 55.

ARTICLE 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the power set forth in Chapter X.

CHAPTER X. THE ECONOMIC AND SOCIAL COUNCIL

Composition

ARTICLE 61

1. The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly.
2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council 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, eighteen members of the Economic and Social Council shall be chosen. The term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.
4. Each member of the Economic and Social Council shall have one representative.

Functions and Powers

ARTICLE 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.
2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.
3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.
4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

ARTICLE 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.
2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

ARTICLE 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to rec-

ommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

ARTICLE 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

ARTICLE 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

Voting

ARTICLE 67

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

Procedure

ARTICLE 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

ARTICLE 69

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

ARTICLE 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

ARTICLE 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

ARTICLE 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

CHAPTER XI. DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

ARTICLE 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognise the principle that the interests of the inhabitants

of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

ARTICLE 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighborliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII. INTERNATIONAL TRUSTEESHIP SYSTEM

ARTICLE 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

ARTICLE 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

a. to further international peace and security;

b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;

c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

ARTICLE 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

a. territories now held under mandate;

b. territories which may be detached from enemy states as a result of the Second World War; and

c. territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

ARTICLE 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of soverign equality.

ARTICLE 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

ARTICLE 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

ARTICLE 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

ARTICLE 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

ARTICLE 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

ARTICLE 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

ARTICLE 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII. THE TRUSTEESHIP COUNCIL

Composition

ARTICLE 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:

a. those Members administering trust territories;

b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and

c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

Functions and Powers

ARTICLE 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

a. consider reports submitted by the administering authority;

b. accept petitions and examine them in consultation with the administering authority;

c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and

d. take these and other actions in conformity with the terms of the trusteeship agreements.

ARTICLE 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

Voting

ARTICLE 89

1. Each member of the Trusteeship Council shall have one vote.

2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

Procedure

ARTICLE 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

ARTICLE 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV. THE INTERNATIONAL COURT OF JUSTICE

ARTICLE 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

ARTICLE 93

1. All Member of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

ARTICLE 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

ARTICLE 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

ARTICLE 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.
2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV. THE SECRETARIAT

ARTICLE 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

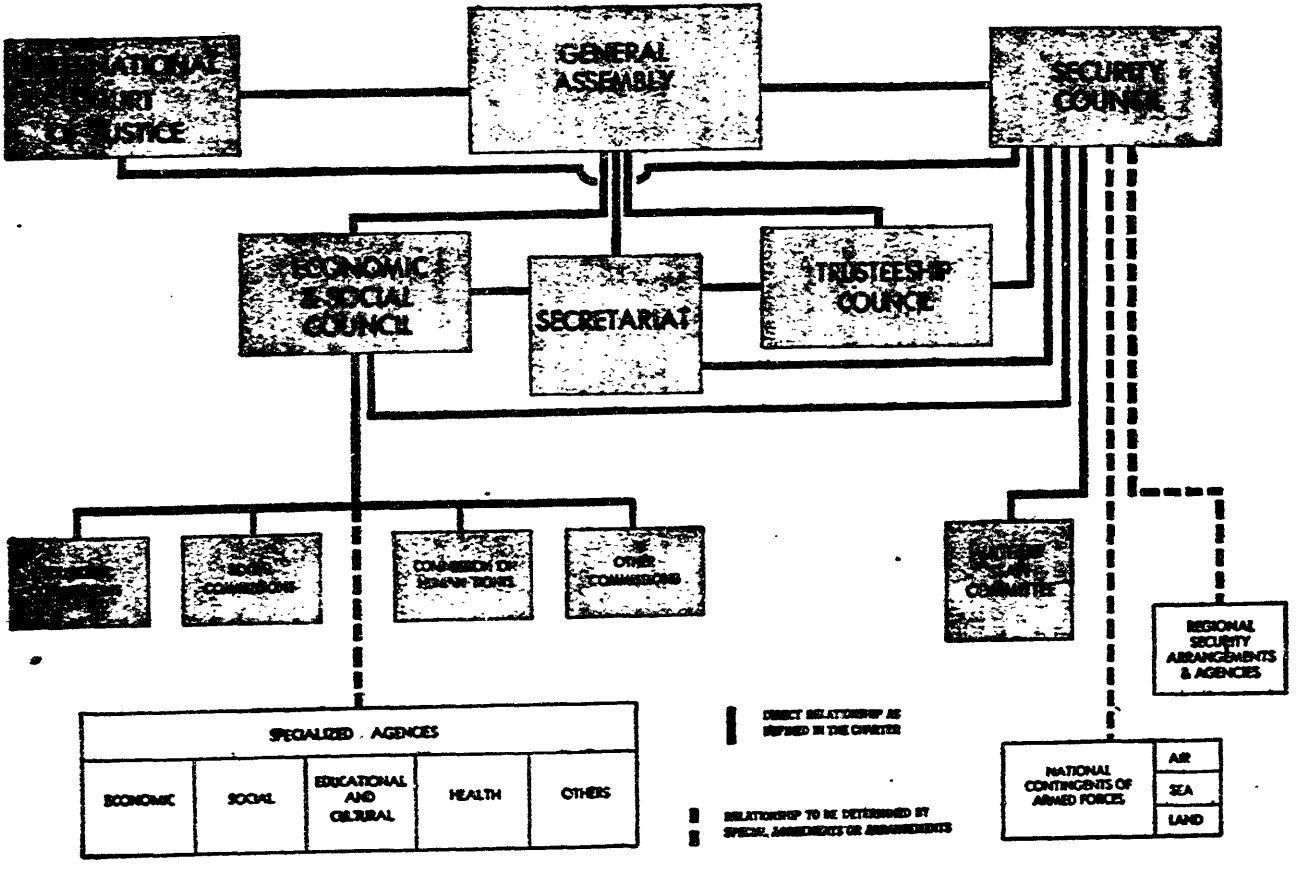
ARTICLE 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

ARTICLE 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

ORGANIZATION OF THE UNITED NATIONS



ARTICLE 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

ARTICLE 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI. MISCELLANEOUS PROVISIONS

ARTICLE 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

ARTICLE 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

ARTICLE 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

ARTICLE 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII. TRANSITIONAL SECURITY ARRANGEMENTS

ARTICLE 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

ARTICLE 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII. AMENDMENTS

ARTICLE 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council.

ARTICLE 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

CHAPTER XIX. RATIFICATION AND SIGNATURE

ARTICLE 110

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.

2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.

3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.

4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

ARTICLE 111

The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHEREOF the representatives of the Governments of the United Nations have signed the present Charter.

DONE at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

ARTICLE 1

The International Court of Justice established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I. ORGANIZATION OF THE COURT

ARTICLE 2

The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

ARTICLE 3

1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state.
2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

ARTICLE 4

1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.
2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.
3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

ARTICLE 5

1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the states which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.
2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

ARTICLE 6

Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

ARTICLE 7

1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.
2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

ARTICLE 8

The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

ARTICLE 9

At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

ARTICLE 10

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.
2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.
3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

ARTICLE 11

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

ARTICLE 12

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpo. of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.
2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.
3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.
4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

ARTICLE 13

1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.
2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.
3. The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.
4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

ARTICLE 14

Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.

ARTICLE 15

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

ARTICLE 16

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.
2. Any doubt on this point shall be settled by the decision of the Court.

ARTICLE 17

1. No member of the Court may act as agent, counsel, or advocate in any case.
2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.
3. Any doubt on this point shall be settled by the decision of the Court.'

ARTICLE 18

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.
2. Formal notification thereof shall be made to the Secretary-General by the Registrar.
3. This notification makes the place vacant.

ARTICLE 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

ARTICLE 20

Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

ARTICLE 21

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.
2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

ARTICLE 22

1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.
2. The President and the Registrar shall reside at the seat of the Court.

ARTICLE 23

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.
2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.
3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

ARTICLE 24

1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.
2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.
3. If in any such case the member of the Court and the President disagree the matter shall be settled by the decision of the Court.

ARTICLE 25

1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.
2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.
3. A quorum of nine judges shall suffice to constitute the Court.

ARTICLE 26

1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of cases; for example, labor cases and cases relating to transit and communications.
2. The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.
3. Cases shall be heard and determined by the chambers provided for in this Article if the parties so request.

ARTICLE 27

A judgment given by any member of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

ARTICLE 28

The chambers provided for in Article 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

ARTICLE 29

With a view to the speedy despatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

ARTICLE 30

1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.
2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

ARTICLE 31

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.
2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.
3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.

4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the judges specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.

6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfil the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

ARTICLE 32

1. Each member of the Court shall receive an annual salary.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for every day on which he acts as President.

4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.

5. These salaries, allowances, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.

6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.

7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their traveling expenses refunded.

8. The above salaries, allowances, and compensation shall be free of all taxation.

ARTICLE 33

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

Chapter II. Competence of the Court

ARTICLE 34

1. Only states may be parties in cases before the Court.

2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.

3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

ARTICLE 35

1. The Court shall be open to the states parties to the present Statute.

2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.

ARTICLE 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.

2. The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

a. the interpretation of a treaty;

b. any question of international law;

c. the existence of any fact which, if established, would constitute a breach of an international obligation;

d. the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

ARTICLE 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

ARTICLE 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

b. international custom, as evidence of a general practice accepted as law;

c. the general principles of law recognized by civilized nations;

d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

CHAPTER III. PROCEDURE

ARTICLE 39

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.

2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.

3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

ARTICLE 40

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

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2. The Registrar shall forthwith communicate the application to all concerned.
3. He shall also notify the Members of the United Nations through the Secretary-General, and also any other states entitled to appear before the Court.

ARTICLE 41

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.
2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

ARTICLE 42

1. The parties shall be represented by agents.
2. They may have the assistance of counsel or advocates before the Court.
3. The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

ARTICLE 43

1. The procedure shall consist of two parts: written and oral.
2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.
3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.
4. A certified copy of every document produced by one party shall be communicated to the other party.
5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.

ARTICLE 44

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the government of the state upon whose territory the notice has to be served.
2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

ARTICLE 45

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

ARTICLE 46

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

ARTICLE 47

1. Minutes shall be made at each hearing and signed by the Registrar and the President.
2. These minutes alone shall be authentic.

ARTICLE 48

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

ARTICLE 49

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

ARTICLE 50.

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an enquiry or giving an expert opinion.

ARTICLE 51

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

ARTICLE 52

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

ARTICLE 53

1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favor of its claim.
2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

ARTICLE 54

1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.
2. The Court shall withdraw to consider the judgment.
3. The deliberations of the Court shall take place in private and remain secret.

ARTICLE 55

1. All questions shall be decided by a majority of the judges present.
2. In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

ARTICLE 56

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the judges who have taken part in the decision.

ARTICLE 57

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

ARTICLE 58

The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

ARTICLE 59

The decision of the Court has no binding force except between the parties and in respect of that particular case.

ARTICLE 60

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

ARTICLE 61

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also

to the party claiming revision, always provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment.

ARTICLE 62

1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

2. It shall be for the Court to decide upon this request.

ARTICLE 63

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Register shall notify all such states forthwith.

2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

ARTICLE 64

Unless otherwise decided by the Court, each party shall bear its own costs.

CHAPTER IV. ADVISORY OPINIONS

ARTICLE 65

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

ARTICLE 66

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.

2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. Should any such state entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.

4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.

ARTICLE 67

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

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ARTICLE 68

In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

CHAPTER V. AMENDMENT

ARTICLE 69

Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not members of the United Nations.

ARTICLE 70

The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

For China:
VI-KYUIN WELLINGTON KOO
WANG CHIUNG-HUI
WEI TAO-MING
WU YI-FANG
LI HWANG
CHIUN-MAI CARSON CHANG
TUNG PI-WU
HU LIN

For the Union of Soviet Socialist Republics:
A GROMYKO
A LAVRENTIEV
K NOVIKOV
S. TSARAPKIN
S GOLUNSKY
S KRYLOV
RODIONOV

For the United Kingdom of Great Britain and Northern Ireland:
HALIFAX.
CRANBORNE.

For the United States of America:
E R STETTINIUS, JR
CORDELL HULL
TOM CONNALLY
A H VANDENBERG
SOL. BLOOM
CHARLES A. EATON.
HAROLD E STASSEN
VIRGINIA C. GILDERSLEEVE.

For France:
J. PAUL-BONCOUR

For Argentina:
M CÁRCANO
O IBARRA G.
JUAN CARLOS BASSI
A D BRUNET

For Australia:
F. M. FORDE.
H V EVATT.

For the Kingdom of Belgium:
A E DE SCHRYVER

For Bolivia:
V ANDRADE
C SALAMANCA F
E ARZE Q.

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For Brazil:
P. LEÃ O VELLOSO
C DE FREITAS VALLE.
GEN. ESTEVAO LEITAO DE CARVALHO
A. CAMILLO DE OLIVEIRA
DR BERTHA LUTZ
For the Byelorussian Soviet Socialist Republic:
K KISELEV
A ZHEBRAK
V. PERTSEV
G BAIDAKOV
F. SHMYGAV
For Canada:
W. L. MACKENZIE KING.
LOUIS. S. ST. LAUFENT
For Chile:
JOAQUÍN FERNÁNDEZ F
MARCIAL MORA M
JOSÉ MAZA
GABRIEL GONZÁLEZ
CONTRERAS LABARCA
F. NIETO DEL RÍO
E ALCALDE C
GERMÁN VERGARA.
JULIO ESCUDERO.
For Colombia:
ALBERTO LLERAS
AL GONZÁLEZ FERNÁNDEZ
EDUARDO ZULETA ANGEL
SILVIO VILLEGAS
JESÚS M. YEPES.
For Costa Rica:
JULIO ACOSTA
J RAFAEL OREAMUNO
For Cuba:
GMO BELT
ERNNESTO DIHIGO
For Czechoslovakia:
JAN MASARYK.
For Denmark:
HENRIK KAUFFMANN
HARTVIG FRISCH
E. HUSFELDT
For the Dominican Republic:
M PEÑA BATLLE
EMILIO G GODOY
GILBERTO SÁNCHEZ LUSTRINO
T. FRANCO F
MINERVA BERNARDINO
For Ecuador:
C. PONCE ENAÍQUEZ
GALO PLAZA
C. TOBAR ZALDUMBIDE
For Egypt:
A. BADAWI.
IB. HADI
For El Salvador:
HÉCTOR DAVID CASTRO
CARLOS LEIVA, M. D.
For Ethiopia:
AKLILU H
AMDAYE W
EPHREM T. MEDHEN
For Greece:
J. A. SOFIANOPOULOS

For Guatemala:
GUILLERMO TORIELLO
M. NORIEGA M
E SILVA PEÑA
For Haiti:
GERARD LESCOT
A. LIAUTAUD
For Honduras:
JULIÁN R CÁCERES
MARCOS CARIAS REYES
VIRGILIO R. GALVEZ
For India:
A RAMASWAMI MUDALIAR.
V. T. KRISHNAMACHARI
For Iran:
MOSTAFA ADLE
For Iraq:
MOHD. FADHEL JAMALI
For Lebanon:
W. NAIM
A. YAFI
SALEM.
CHARLES MALIK
For Liberia:
C. L. SIMPSON
GABRIEL L. DENNIS
J. LEMUEL GIBSON
RICHARD HENRIES
M. N. GRANT
For the Grand Duchy of Luxembourg:
HUGUES LE GALLAIS
For Mexico:
E. PADILLA
F. CASTILLO NÁJERA
MANUEL TELLO.
For the Kingdom of the Netherlands:
A. LOUDON
For New Zealand:
PETER FRASER.
C A BERENDSEN
For Nicaragua:
MARIANO ARGÜELLO
LUIS MANUEL DE BAYLE
For the Kingdom of Norway:
WILHELM MUNTHE MORGENSTIERNE
For Panama:
ROBERTO JIMÉNEZ
For Paraguay:
CELSO R. VELÁZQUEZ
J. B. AYALA
For Peru:
MANUEL C GALLAGHER
V. A. BELAUNDE
LUIS FERNÁN CISNEROS.
For the Philippine Commonwealth:
CARLOS P. ROMULO
FRANCISCO A. DELGADO.
For Poland:
[*to be signed at a later date*]
For Saudi Arabia:
FAISAL
For Syria:
F. AL-KHOURI
N. ANTAKI
N. KOUDSI

For Turkey:
HASAN SAKA
HUSEYIN RAGIP BAYDUR
FERIDUN CEMAL ERKIN
For the Ukrainian Soviet Socialist Republic:
DM. MANUILSKY
IVAN SENIN
ALEXANDER PALLADIN
MIKOLA PETROVSKY
For the Union of South Africa:
J. C. SMUTS F. M.
For Uruguay:
JOSÉ SERRATO
JACOBO VARELA
HÉCTOR LUISI
CY GIAMBRUNO
JUAN F. GUICHÓN
HÉCTOR PAYSSÉ REYES
For Venezuela:
C PARRA PÉREZ
GUSTAVO HERRERA
A MACHADO HNDZ
R. ERNESTO LÓPEZ
For Yugoslavia:
STANOJE SEMIĆ

EXHIBIT VIII–B

[Pamphlet]

(Treaties and Other International Acts Series 1502)

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

ARTICLES OF AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND OTHER POWERS

Formulated at the United Nations Monetary and Financial Conference BRETTON WOODS, NEW HAMPSHIRE, July 1 to July 22, 1944—Signed at Washington, December 27, 1945—Instrument of Acceptance by the United States of America Deposited December 20, 1945—Effective December 27, 1945

ARTICLES OF AGREEMENT OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

The Governments on whose behalf the present Agreement is signed agree as follows:

INTRODUCTORY ARTICLE

The International Bank for Reconstruction and Development is established and shall operate in accordance with the following provisions:

ARTICLE I. PURPOSES

The purposes of the Bank are:

(i) To assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes, including the restoration of economies destroyed or disrupted by war, the reconversion of productive facilities to peacetime needs and the encouragement of the development of productive facilities and resources in less developed countries.

(ii) To promote private foreign investment by means of guarantees or participations in loans and other investments made by private investors; and when private capital is not available on reasonable terms, to supplement private investment by providing, on suitable conditions, finance for produc-

tive purposes out of its own capital, funds raised by it and its other resources.

(iii) To promote the long-range balanced growth of international trade and the maintenance of equilibrium in balances of payments by encouraging international investment for the development of the productive resources of members, thereby assisting in raising productivity, the standard of living and conditions of labor in their territories.

(iv) To arrange the loans made or guaranteed by it in relation to international loans through other channels so that the more useful and urgent projects, large and small alike, will be dealt with first.

(v) To conduct its operations with due regard to the effect of international investment on business conditions in the territories of members and, in the immediate post-war years, to assist in bringing about a smooth transition from a wartime to a peacetime economy.

The Bank shall be guided in all its decisions by the purposes set forth above.

ARTICLE II. MEMBERSHIP IN AND CAPITAL OF THE BANK

Section 1. Membership

(a) The original members of the Bank shall be those members of the International Monetary Fund which accept membership in the Bank before the date specified in Article XI, Section 2 (e).

(b) Membership shall be open to other members of the Fund, at such times and in accordance with such terms as may be prescribed by the Bank.

Section 2. Authorized capital

(a) The authorized capital stock of the Bank shall be $10,000,000,000, in terms of United States dollars of the weight and fineness in effect on July 1, 1944. The capital stock shall be divided into 100,000 shares having a par value of $100,000 each, which shall be available for subscription only by members.

(b) The capital stock may be increased when the Bank deems it advisable by a three-fourths majority of the total voting power.

Section 3. Subscription of shares

(a) Each member shall subscribe shares of the capital stock of the Bank. The minimum number of shares to be subscribed by the original members shall be those set forth in Schedule A. The minimum number of shares to be subscribed by other members shall be determined by the Bank, which shall reserve a sufficient portion of its capital stock for subscription by such members.

(b) The Bank shall prescribe rules laying down the conditions under which members may subscribe shares of the authorized capital stock of the Bank in addition to their minimum subscriptions.

(c) If the authorized capital stock of the Bank is increased, each member shall have a reasonable opportunity to subscribe, under such conditions as the Bank shall decide, a proportion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the total capital stock of the Bank, but no member shall be obligated to subscribe any part of the increased capital.

Section 4. Issue price of shares

Shares included in the minimum subscriptions of original members shall be issued at par. Other shares shall be issued at par unless the Bank by a majority of the total voting power decides in special circumstances to issue them on other terms.

Section 5. Division and calls of subscribed capital

The subscription of each member shall be divided into two parts as follows:

(i) twenty percent shall be paid or subject to call under Section 7 (i) of this Article as needed by the Bank for its operations;

(ii) the remaining eighty percent shall be subject to call by the Bank only when required to meet obligations of the Bank created under Article IV, Sections 1 (a) (ii) and (iii).

Calls on unpaid subscriptions shall be uniform on all shares.

Section 6. Limitation on liability

Liability on shares shall be limited to the unpaid portion of the issue price of the shares.

Section 7. Method of payment of subscriptions for shares

Payment of subscriptions for shares shall be made in gold or United States dollars and in the currencies of the members as follows:

(i) under Section 5 (i) of this Article, two percent of the price of each share shall be payable in gold or United States dollars, and, when calls are made, the remaining eighteen percent shall be paid in the currency of the member;

(ii) when a call is made under Section 5 (ii) of this Article, payment may be made at the option of the member either in gold, in United States dollars or in the currency required to discharge the obligations of the Bank for the purpose for which the call is made;

(iii) when a member makes payments in any currency under (i) and (ii) above, such payments shall be made in amounts equal in value to the member's liability under the call. This liability shall be a proportionate part of the subscribed capital stock of the Bank as authorized and defined in Section 2 of this Article.

Section 8. Time of payment of subscriptions

(a) The two percent payable on each share in gold or United States dollars under Section 7 (i) of this Article, shall be paid within sixty days of the date on which the Bank begins operations, provided that

(i) any original member of the Bank whose metropolitan territory has suffered from enemy occupation or hostilities during the present war shall be granted the right to postpone payment of one-half percent until five years after that date;

(ii) an original member who cannot make such a payment because it has not recovered possession of its gold reserves which are still seized or immobilized as a result of the war may postpone all payment until such date as the Bank shall decide.

(b) The remainder of the price of each share payable under Section 7 (i) of this Article shall be paid as and when called by the Bank, provided that

(i) the Bank shall, within one year of its beginning operations, call not less than eight percent of the price of the share in addition to the payment of two percent referred to in (a) above;

(ii) not more than five percent of the price of the share shall be called in any period of three months.

Section 9. Maintenance of value of certain currency holdings of the Bank

(a) Whenever (i) the par value of a member's currency is reduced, or (ii) the foreign exchange value of a member's currency has, in the opinion of the Bank, depreciated to a significant extent within that member's territories, the member shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value, as of the time of initial subscription, of the amount of the currency of such member which is held by the Bank and derived from currency originally paid in to the Bank by the member under Article II, Section 7 (i), from currency referred to in Article IV, Section 2 (b), or from any additional currency furnished under the provisions of the present paragraph, and which has not been repurchased by the member for gold or for the currency of any member which is acceptable to the Bank.

(b) Whenever the par value of a member's currency is increased, the Bank shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency described in (a) above.

(c) The provisions of the preceding paragraphs may be waived by the Bank when a uniform proportionate change in the par values of the currencies of all its members is made by the International Monetary Fund.

Section 10. Restriction on disposal of shares

Shares shall not be pledged or encumbered in any manner whatever and they shall be transferable only to the Bank.

ARTICLE III. GENERAL PROVISIONS RELATING TO LOANS AND GUARANTEES

Section 1. Use of resources

(a) The resources and the facilities of the Bank shall be used exclusively for the benefit of members with equitable consideration to projects for development and projects for reconstruction alike.

(b) For the purpose of facilitating the restoration and reconstruction of the economy of members whose metropolitan territories have suffered great devasta-

tion from enemy occupation or hostilities, the Bank, in determining the conditions and terms of loans made to such members, shall pay special regard to lightening the financial burden and expediting the completion of such restoration and reconstruction.

Section 2. Dealings between members and the Bank

Each member shall deal with the Bank only through its Treasury, central bank, stabilization fund or other similar fiscal agency, and the Bank shall deal with members only by or through the same agencies.

Section 3. Limitations on guarantees and borrowings of the Bank

The total amount outstanding of guarantees, participations in loans and direct loans made by the Bank shall not be increased at any time, if by such increase the total would exceed one hundred percent of the unimpaired subscribed capital, reserves and surplus of the Bank.

Section 4. Conditions on which the Bank may guarantee or make loans

The Bank may guarantee, participate in, or make loans to any member or any political sub-division thereof and any business, industrial, and agricultural enterprise in the territories of a member, subject to the following conditions:

(i) When the member in whose territories the project is located is not itself the borrower, the member or the central bank or some comparable agency of the member which is acceptable to the Bank, fully gharantees the repayment of the principal and the payment of interest and other charges on the loan.

(ii) The Bank is satisfied that in the prevailing market conditions the borrower would be unable otherwise to obtain the loan under conditions which in the opinion of the Bank are reasonabe for the borrower.

(iii) A competent committee, as provided for in Article V, Section 7, has submitted a written report recommending the project after a careful study of the merits of the proposal.

(iv) In the opinion of the Bank the rate of interest and other charges are reasonable and such rate, charges and the schedule for repayment of principal are appropriate to the project.

(v) In making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower, and, if the borrower is not a member, that the guarantor, will be in position to meet its obligations under the loan; and the Bank shall act prudently in the interests both of the particular member in whose territories the project is located and of the members as a whole.

(vi) In guaranteeing a loan made by other investors, the Bank receives suitable compensation for its risk.

(vii) Loans made or guaranteed by the Bank shall, except in special circumstances, be for the purpose of specific projects of reconstruction or development.

Section 5. Use of loans guaranteed, participated in or made by the Bank

(a) The Bank shall impose no conditions that the proceeds of a loan shall be spent in the territories of any particular member or members.

(b) The Bank shall make arrangements to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency and without regard to political or other non-economic influences or considerations.

(c) In the case of loans made by the Bank, it shall open an account in the name of the borrower and the amount of the loan shall be credited to this account in the currency or currencies in which the loan is made. The borrower shall be permitted by the Bank to draw on this account only to meet expenses in connection with the project as they are actually incurred.

ARTICLE IV. OPERATIONS

Section 1. Methods of making or facilitating loans

(a) The Bank may make or facilitate loans which satisfy the general conditions of Article III in any of the following ways:

(i) By making or participating in direct loans out of its own funds corresponding to its unimpaired paid-up capital and surplus and, subject to Section 6 of this Article, to its reserves.

(ii) By making or participating in direct loans out of funds raised in the market of a member, or otherwise borrowed by the Bank.

(iii) By guaranteeing in whole or in part loans made by private investors through the usual investment channels.

(b) The Bank may borrow funds under (a) (ii) above or guarantee loans under (a) (iii) above only with the approval of the member in whose markets the funds are raised and the member in whose currency the loan is denominated, and only if those members agree that the proceeds may be exchanged for the currency of any other member without restriction.

Section 2. Availability and transferability of currencies

(a) Currencies paid into the Bank under Article II, Section 7 (i), shall be loaned only with the approval in each case of the member whose currency is involved; provided, however, that if necessary, after the Bank's subscribed capital has been entirely called, such currncies shall, without restriction by the members whose currencies are offered, be used or exchanged for the currencies required to meet contractual payments of interest, other charges or amortization on the Bank's own borrowings, or to meet the Bank's liabilities with respect to such contractual payments on loans guaranteed by the Bank.

(b) Currencies received by the Bank from borrowers or guarantors in payment on account of principal of direct loans made with currencies referred to in (a) above shall be exchanged for the currencies of other members or reloaned only with the approval in each case of the members whose currencies are involved; provided, however, that if necessary, after the Bank's subscribed capital has been entirely called, such currencies shall, without restriction by the members whose currencies ar offered, be used or exchanged for the currencies required to meet contractual payments of interest, other charges or amortization on the Bank's own borrowings, or to meet the Bank's liabilities with respect to such contractual payments on loans guaranteed by the Bank.

(c) Currencies received by the Bank from borrowers or guarantors in payment on account of principal of direct loans made by the Bank under Section 1 (a) (ii) of this Article, shall be held and used, without restriction by the members, to make amortization payments, or to anticipate payment of or repurchase part or all of the Bank's own obligations.

(d) All other currencies available to the Bank, including those raised in the market or otherwise borrowed under Section 1 (a) (ii) of this Article, those obtained by the sale of gold, those received as payments of interest and other charges for direct loans made under Sections 1 (a) (i) and (ii), and those received as payments of commissions and other charges under Section 1 (a) (iii), shall be used or exchanged for other currencies or gold required in the operations of the Bank without restriction by the members whose currencies are offered.

(e) Currencies raised in the markets of members by borrowers on loans guaranteed by the Bank under Section 1 (a) (iii) of this Article, shall also be used or exchanged for other currencies without restriction by such members.

Section 3. Provision of currencies for direct loans

The following provisions shall apply to direct loans under Sections 1 (a) (i) and (ii) of this Article:

(a) The Bank shall furnish the borrower with such currencies of members, other than the member in whose territories the project is located, as are needed by the borrower for expenditures to be made in the territories of such other members to carry out the purposes of the loan.

(b) The Bank may, in exceptional circumstances when local currency required for the purposes of the loan cannot be raised by the borrower on reasonable terms, provide the borrower as part of the loan with an appropriate amount of that currency.

(c) The Bank, if the project gives rise indirectly to an increased need for foreign exchange by the member in whose territories the project is located, may in exceptional circumstances provide the borrower as part of the loan with an appropriate amount of gold or foreign exchange not in excess of the borrower's local expenditure in connection with the purposes of the loan.

(d) The Bank may, in exceptional circumstances, at the request of a member in whose territories a portion of the loan is spent, repurchase with gold or foreign exchange a part of that member's currency thus spent but in no case shall the part

so repurchased exceed the amount by which the expenditure of the loan in those territories gives rise to an increased need for foreign exchange.

Section 4. Payment provisions for direct loans

Loan contracts under Section 1 (a) (i) or (ii) of this Article shall be made in accordance with the following payment provisions:

(a) The terms and conditions of interest and amortization payments, maturity and dates of payment of each loan shall be determined by the Bank. The Bank shall also determine the rate and any other terms and conditions of commission to be charged in connection with such loan.

In the case of loans made under Section 1 (a) (ii) of this Article during the first ten years of the Bank's operations, this rate of commission shall be not less than one percent per annum and not greater than one and one-half percent per annum, and shall be charged on the outstanding portion of any such loan. At the end of this period of ten years, the rate of commission may be reduced by the Bank with respect both to the outstanding portions of loans already made and to future loans, if the reserves accumulated by the Bank under Section 6 of this Article and out of other earnings are considered by it sufficient to justify a reduction. In the case of future loans the Bank shall also have discretion to increase the rate of commission beyond the above limit, if experience indicates that an increase is advisable.

(b) All loan contracts shall stipulate the currency or currencies in which payments under the contract shall be made to the Bank. At the option of the borrower, however, such payments may be made in gold, or subject to the agreement of the Bank, in the currency of a member other than that prescribed in the contract.

(i) In the case of loans made under Section 1 (a) (i) of this Article, the loan contracts shall provide that payments to the Bank of interest, other charges and amortization shall be made in the currency loaned, unless the member whose currency is loaned agrees that such payments shall be made in some other specified currency or currencies. These payments, subject to the provisions of Article II, Section 9 (c), shall be equivalent to the value of such contractual payments at the time the loans were made, in terms of a currency specified for the purpose by the Bank by a three-fourths majority of the total voting power.

(ii) In the case of loans made under Section 1 (a) (ii) of this Article, the total amount outstanding and payable to the Bank in any one currency shall at no time exceed the total amount of the outstanding borrowings made by the Bank under Section 1 (a) (ii) and payable in the same currency.

(c) If a member suffers from an acute exchange stringency, so that the service of any loan contracted by that member or guaranteed by it or by one of its agencies cannot be provided in the stipulated manner, the member concerned may apply to the Bank for a relaxation of the conditions of payment. If the Bank is satisfied that some relaxation is in the interests of the particular member and of the operations of the Bank and of its members as a whole, it may take action under either, or both, of the following paragraphs with respect to the whole, or part, of the annual service:

(i) The Bank may, in its discretion, make arrangements with the member concerned to accept service payments on the loan in the member's currency for periods not to exceed three years upon appropriate terms regarding the use of such currency and the maintenance of its foreign exchange value; and for the repurchase of such currency on appropriate terms.

(ii) The Bank may modify the terms of amortization or extend the life of the loan, or both.

Section 5. Guarantees

(a) In guaranteeing a loan placed through the usual investment channels, the Bank shall charge a guarantee commission payable periodically on the amount of the loan outstanding at a rate determined by the Bank. During the first ten years of the Bank's operations, this rate shall be not less than one percent per annum and not greater than one and one-half percent per annum. At the end of this period of ten years, the rate of commission may be reduced by the Bank with respect both to the outstanding portions of loans already guaran-

teed and to future loans if the reserves accumulated by the Bank under Section 6 of this Article and out of other earnings are considered by it sufficient to justify a reduction. In the case of future loans the Bank shall also have discretion to increase the rate of commission beyond the above limit, if experience indicates that an increase is advisable.

(b) Guarantee commissions shall be paid directly to the Bank by the borrower.

(c) Guarantees by the Bank shall provide that the Bank may terminate its liability with respect to interest if, upon default by the borrower and by the guarantor, if any, the Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.

(d) The Bank shall have power to determine any other terms and conditions of the guarantee.

Section 6. Special reserve

The amount of commissions received by the Bank under Sections 4 and 5 of this Article shall be set aside as a special reserve, which shall be kept available for meeting liabilities of the Bank in accordance with Section 7 of this Article. The special reserve shall be held in such liquid form, permitted under this Agreement, as the Executive Directors may decide.

Section 7. Methods of meeting liabilities of the Bank in case of defaults

In cases of default on loans made, participated in, or guaranteed by the Bank:

(a) The Bank shall make such arrangements as may be feasible to adjust the obligations under the loans, including arrangements under or analogous to those provided in Section 4 (c) of this Article.

(b) The payments in discharge of the Bank's liabilities on borrowings or guarantees under Section 1 (a) (ii) and (iii) of this Article shall be charged:

(i) first, against the special reserve provided in Section 6 of this Article.

(ii) then, to the extent necessary and at the discretion of the Bank, against the other reserves, surplus and capital available to the Bank.

(c) Whenever necessary to meet contractual payments of interest, other charges or amortization on the Bank's own borrowings, or to meet the Bank's liabilities with respect to similar payments on loans guaranteed by it, the Bank may call an appropriate amount of the unpaid subscriptions of members in accordance with Article II, Sections 5 and 7. Moreover, if it believes that a default may be of long duration, the Bank may call an additional amount of such unpaid subscriptions not to exceed in any one year one percent of the total subscriptions of the members for the following purposes:

(i) To redeem prior to maturity, or otherwise discharge its liability on, all or part of the outstanding principal of any loan guaranteed by it in respect of which the debtor is in default.

(ii) To repurchase, or otherwise discharge its liability on, all or part of its own outstanding borrowings.

Section 8. Miscellaneous operations

In addition to the operations specified elsewhere in this Agreement, the Bank shall have the power:

(i) To buy and sell securities it has issued and to buy and sell securities which it has guaranteed or in which it has invested, provided that the Bank shall obtain the approval of the member in whose territories the securities are to be bought or sold.

(ii) To guarantee securities in which it has invested for the purpose of facilitating their sale.

(iii) To borrow the currency of any member with the approval of that member.

(iv) To buy and sell such other securities as the Directors by a three-fourths majority of the total voting power may deem proper for the investment of all or part of the special reserve under Section 6 of this Article.

In exercising the powers conferred by this Section, the Bank may deal with any person, partnership, association, corporation or other legal entity in the territories of any member.

Section 9. Warning to be placed on securities

Every security guaranteed or issued by the Bank shall bear on its face a conspicuous statement to the effect that it is not an obligation of any government unless expressly stated on the security.

Section 10. Political activity prohibited

The Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes stated in Article I.

ARTICLE V. ORGANIZATION AND MANAGEMENT

Section 1. Structure of the Bank

The Bank shall have a Board of Governors, Executive Directors, a President and such other officers and staff to perform such duties as the Bank may determine.

Section 2. Board of Governors

(a) All the powers of the Bank shall be vested in the Board of Governors consisting of one governor and one alternate appointed by each member in such manner as it may determine. Each governor and each alternate shall serve for five years, subject to the pleasure of the member appointing him, and may be reappointed. No alternate may vote except in the absence of his principal. The Board shall select one of the governors as Chairman.

(b) The Board of Governors may delegate to the Executive Directors authority to exercise any powers of the Board, except the power to:

(i) Admit new members and determine the conditions of their admission;

(ii) Increase or decrease the capital stock;

(iii) Suspend a member;

(iv) Decide appeals from interpretations of this Agreement given by the Executive Directors;

(v) Make arrangements to cooperate with other international organizations (other than informal arrangements of a temporary and administrative character);

(vi) Decide to suspend permanently the operations of the Bank and to distribute its assets;

(vii) Determine the distribution of the net income of the Bank.

(c) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board or called by the Executive Directors. Meetings of the Board shall be called by the Directors whenever requested by five members or by members having one-quarter of the total voting power.

(d) A quorum for any meeting of the Board of Governors shall be a majority of the Governors, exercising not less than two-thirds of the total voting power.

(e) The Board of Governors may by regulation establish a procedure whereby the Executive Directors, when they deem such action to be in the best interests of the Bank, may obtain a vote of the Governors on a specific question without calling a meeting of the Board.

(f) The Board of Governors, and the Executive Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Bank.

(g) Governors and alternates shall serve as such without compensation from the Bank, but the Bank shall pay them reasonable expenses incurred in attending meetings.

(h) The Board of Governors shall determine the remuneration to be paid to the Executive Directors and the salary and terms of the contract of service of the President.

Section 3. Voting

(a) Each member shall have two hundred fifty votes plus one additional vote for each share of stock held.

(b) Except as otherwise specifically provided, all matters before the Bank shall be decided by a majority of the votes cast.

Section 4. Executive Directors

(a) The Executive Directors shall be responsible for the conduct of the general operations of the Bank, and for this purpose, shall exercise all the powers delegated to them by the Board of Governors.

(b) There shall be twelve Executive Directors, who need not be governors and of whom:

(i) five shall be appointed, one by each of the five members having the largest number of shares;

(ii) seven shall be elected according to Schedule B by all the Governors other than those appointed by the five members referred to in (i) above.

For the purpose of this paragraph, "members" means governments of countries whose names are set forth in Schedule A, whether they are original members or become members in accordance with Article II, Section 1 (b). When governments of other countries become members, the Board of Governors may, by a four-fifths majority of the total voting power, increase the total number of directors by increasing the number of directors to be elected.

Executive directors shall be appointed or elected every two years.

(c) Each executive director shall appoint an alternate with full power to act for him when he is not present. When the executive directors appointing them are present, alternates may participate in meetings but shall not vote.

(d) Directors shall continue in office until their successors are appointed or elected. If the office of an elected director becomes vacant more than ninety days before the end of his term, another director shall be elected for the remainder of the term by the governors who elected the former director. A majority of the votes cast shall be required for election. While the office remains vacant, the alternate of the former director shall exercise his powers, except that of appointing an alternate.

(e) The Executive Directors shall function in continuous session at the principal office of the Bank and shall meet as often as the business of the Bank may require.

(f) A quorum for any meeting of the Executive Directors shall be a majority of the Directors, exercising not less than one-half of the total voting power.

(g) Each appointed director shall be entitled to cast the number of votes allotted under Section 8 of this Article to the member appointing him. Each elected director shall be entitled to cast the number of votes which counted toward his election. All the votes which a director is entitled to cast shall be cast as a unit.

(h) The Board of Governors shall adopt regulations under which a member not entitled to appoint a director under (b) above may send a representative to attend any meeting of the Executive Directors when a request made by, or a matter particularly affecting, that member is under consideration.

(i) The Executive Directors may appoint such committees as they deem advisable. Membership of such committees need not be limited to governors or directors or their alternates.

Section 5. President and staff

(a) The Executive Directors shall select a President who shall not be a governor or an executive director or an alternate for either. The President shall be Chairman of the Executive Directors, but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors, but shall not vote at such meetings. The President shall cease to hold office when the Executive Directors so decide.

(b) The President shall be chief of the operating staff of the Bank and shall conduct, under the direction of the Executive Directors, the ordinary business of the Bank. Subject to the general control of the Executive Directors, he shall be responsible for the organization, appointment and dismissal of the officers and staff.

(c) The President, officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

(d) In appointing the officers and staff the President shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographical basis as possible.

Section 6. Advisory Council

(a) There shall be an Advisory Council of not less than seven persons selected by the Board of Governors including representatives of banking, commercial, industrial, labor, and agricultural interests, and with as wide a national representation as possible. In those fields where specialized international organizations exist, the members of the Council representitave of those fields shall be selected in agreement with such organizations. The Council shall advise the Bank on matters of general policy. The Council shall meet annually and on such other occasions as the Bank may request.

(b) Councillors shall serve for two years and may be reappointed. They shall be paid their reasonable expenses incurred on behalf of the Bank.

Section 7. Loan committees

The committees required to report on loans under Article III, Section 4, shall be appointed by the Bank. Each such committee shall include an expert selected by the governor representing the member in whose territories the project is located and one or more members of the technical staff of the Bank.

Section 8. Relationship to other international organizations

(a) The Bank, within the terms of this Agreement, shall cooperate with any general international organization and with public international organizations having specialized responsibilities in related fields. Any arrangements for such cooperation which would involve a modification of any provision of this Agreement may be effected only after amendment to this Agreement under Article VIII.

(b) In making decisions on applications for loans or guarantees relating to matters directly within the competence of any international organization of the types specified in the preceding paragraph and participated in primarily by members of the Bank, the Bank shall give consideration to the views and recommendations of such organization.

Section 9. Location of offices

(a) The principal office of the Bank shall be located in the territory of the member holding the greatest number of shares.

(b) The Bank may establish agencies or branch offices in the territories of any member of the Bank.

Section 10. Regional offices and councils

(a) The Bank may establish regional offices and determine the location of, and the areas to be covered by, each regional office.

(b) Each regional office shall be advised by a regional council representative of the entire area and selected in such manner as the Bank may decide.

Section 11. Depositories

(a) Each member shall designate its central bank as a depository for all the Bank's holdings of its currency or, if it has no central bank, it shall designate such other institution as may be acceptable to the Bank.

(b) The Bank may hold other assets, including gold, in depositories designated by the five members having the largest number of shares and in such other designated depositories as the Bank may select. Initially, at least one-half of the gold holdings of the Bank shall be held in the depository designated by the member in whose territory the Bank has its principal office, and at least forty percent shall be held in the depositories designated by the remaining four members referred to above, each of such depositories to hold, initially, not less than the amount of gold paid on the shares of the member designating it. However, all transfers of gold by the Bank shall be made with due regard to the costs of transport and anticipated requirements of the Bank. In an emergency the Executive Directors may transfer all or any part of the Bank's gold holdings to any place where they can be adequately protected.

Section 12. Form of holdings of currency

The Bank shall accept from any member, in place of any part of the member's currency, paid in to the Bank under Article II, Section 7 (i), or to meet amortisation payments on loans made with such currency, and not needed by the Bank in its operations, notes or similar obligations issued by the Government

of the member or the depository designated by such member, which shall be non-negotiable, non-interest-bearing and payable at their par value on demand by credit to the account of the Bank in the designated depository.

Section 13. Publication of reports and provision of information

(a) The Bank shall publish an annual report containing an audited statement of its accounts and shall circulate to members at intervals of three months or less a summary statement of its financial position and a profit and loss statement showing the results of its operations.

(b) The Bank may publish such other reports as it deems desirable to carry out its purposes.

(c) Copies of all reports, statements and publications made under this section shall be distributed to members.

Section 14. Allocation of net income

(a) The Board of Governors shall determine annually what part of the Bank's net income, after making provision for reserves, shall be allocated to surplus and what part, if any, shall be distributed.

(b) If any part is distributed, up to two percent non-cumulative shall be paid, as a first charge against the distribution for any year, to each member on the basis of the average amount of the loans outstanding during the year made under Article IV, Section 1 (a) (i), out of currency corresponding to its subscriptions. If two percent is paid as a first charge, any balance remaining to be distributed shall be paid to all members in proportion to their shares. Payments to each member shall be made in its own currency, or if that currency is not available in other currency acceptable to the member. If such payments are made in currencies other than the member's own currency, the transfer of the currency and its use by the receiving member after payment shall be without restriction by the members.

ARTICLE VI. WITHDRAWAL AND SUSPENSION OF MEMBERSHIP: SUSPENSION OF OPERATIONS

Section 1. Right of members to withdraw

Any member may withdraw from the Bank at any time by transmitting a notice in writing to the Bank at its principal office. Withdrawal shall become effective on the date such notice is received.

Section 2. Suspension of membership

If a member fails to fulfill any of its obligations to the Bank, the Bank may suspend its membership by decision of a majority of the Governors, exercising a majority of the total voting power. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by the same majority to restore the member to good standing.

While under suspension, a member shall not be entitled to exercise any rights under this Agreement, except the right of withdrawal, but shall remain subject to all obligations.

Section 3. Cessation of membership in International Monetary Fund

Any member which ceases to be a member of the International Monetary Fund shall automatically cease after three months to be a member of the Bank unless the Bank by three-fourths of the total voting power has agreed to allow it to remain a member.

Section 4. Settlement of accounts with governments ceasing to be members

(a) When a government ceases to be a member, it shall remain liable for its direct obligations to the Bank and for its contingent liabilities to the Bank so long as any part of the loans or guarantees contracted before it ceased to be a member are outstanding; but it shall cease to incur liabilities with respect to loans and guarantees entered into thereafter by the Bank and to share either in the income or the expenses of the Bank.

(b) At the time a government ceases to be a member, the Bank shall arrange for the repurchase of its shares as a part of the settlement of accounts with such government in accordance with the provisions of (c) and (d) below. For this

purpose the repurchase price of the shares shall be the value shown by the books of the Bank on the day the government ceases to be a member.

(c) The payment for shares repurchased by the Bank under this section shall be governed by the following conditions:

(i) Any amount due to the government for its shares shall be withheld so long as the government, its central bank or any of its agencies remains liable, as borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied on any such liability as it matures. No amount shall be withheld on account of the liability of the government resulting from its subscription for shares under Article II, Section 5 (ii). In any event, no amount due to a member for its shares shall be paid until six months after the date upon which the government ceases to be a member.

(ii) Payments for shares may be made from time to time, upon their surrender by the government, to the extent by which the amount due as the repurchase price in (b) above exceeds the aggregate of liabilities on loans and guarantees in (c) (i) above until the former member has received the full repurchase price.

(iii) Payments shall be made in the currency of the country receiving payment or at the option of the Bank in gold.

(iv) If losses are sustained by the Bank on any guarantees, participations in loans, or loans which were outstanding on the date when the government ceased to be a member, and the amount of such losses exceeds the amount of the reserve provided against losses on the date when the government ceased to be a member, such government shall be obligated to repay upon demand the amount by which the repurchase price of its shares would have been reduced, if the losses had been taken into account when the repurchase price was determined. In addition, the former member government shall remain liable on any call for unpaid subscriptions under Article II, Section 5 (ii), to the extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined.

(d) If the Bank suspends permanently its operations under Section 5 (b) of this Article, within six months of the date upon which any government ceases to be a member, all rights of such government shall be determined by the provisions of Section 5 of this Article.

Section 5. Suspension of operations and settlement of obligations

(a) In an emergency the Executive Directors may suspend temporarily operations in respect of new loans and guarantees pending an opportunity for further consideration and action by the Board of Governors.

(b) The Bank may suspend permanently its operations in respect of new loans and guarantees by vote of a majority of the Governors, exercising a majority of the total voting power. After such suspension of operations the Bank shall forthwith cease all activities, except those incident to the orderly realization, conservation, and preservation of its assets and settlement of its obligations.

(c) The liability of all members for uncalled subscriptions to the capital stock of the Bank and in respect of the depreciation of their own currencies shall continue until all claims of creditors, including all contingent claims, shall have been discharged.

(d) All creditors holding direct claims shall be paid out of the assets of the Bank, and then out of payments to the Bank on calls on unpaid subscriptions. Before making any payments to creditors holding direct claims, the Executive Directors shall make such arrangements as are necessary, in their judgment, to insure a distribution to holders of contingent claims ratably with creditors holding direct claims.

(e) No distribution shall be made to members on account of their subscriptions to the capital stock of the Bank until

(i) all liabilities to creditors have been discharged or provided for, and

(ii) a majority of the Governors, exercising a majority of the total voting power, have decided to make a distribution.

(f) After a decision to make a distribution has been taken under (e) above, the Executive Directors may by a two-thirds majority vote make successive distributions of the assets of the Bank to members until all of the assets have

been distributed. This distribution shall be subject to the prior settlement of all outstanding claims of the Bank against each member.

(g) Before any distribution of assets is made, the Executive Directors shall fix the proportionate share of each member according to the ratio of its shareholding to the total outstanding shares of the Bank.

(h) The Executive Directors shall value the assets to be distributed as at the date of distribution and then proceed to distribute in the following manner:

(i) There shall be paid to each member in its own obligations or those of its official agencies or legal entities within its territories, insofar as they are available for distribution, an amount equivalent in value to its proportionate share of the total amount to be distributed.

(ii) Any balance due to a member after payment has been made under (i) above shall be paid, in its own currency, insofar as it is held by the Bank, up to an amount equivalent in value to such balance.

(iii) Any balance due to a member after payment has been made under (i) and (ii) above shall be paid in gold or currency acceptable to the member, insofar as they are held by the Bank, up to an amount equivalent in value to such balance.

(iv) Any remaining assets held by the Bank after payments have been made to members under (i), (ii), and (iii) above shall be distributed *pro rata* among the members.

(i) Any member receiving assets distributed by the Bank in accordance with (h) above, shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

ARTICLE VII. STATUS, IMMUNITIES AND PRIVILEGES

Section 1. Purposes of Article

To enable the Bank to fulfill the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territories of each member.

Section 2. Status of the Bank

The Bank shall possess full juridical personality, and, in particular, the capacity:

(i) to contract;

(ii) to acquire and dispose of immovable and movable property;

(iii) to institute legal proceedings.

Section 3. Position of the Bank with regard to judicial process

Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

Section 4. Immunity of assets from seizure

Property and assets of the Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Section 5. Immunity of archives

The archives of the Bank shall be inviolable.

Section 6. Freedom of assets from restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

Section 7. Privilege for communications

The official communications of the Bank shall be accorded by each member of the same treatment that it accords to the official communications of other members.

Section 8. Immunities and privileges of officers and employees

All governors, executive directors, alternates, officers and employees of the Bank

(i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;

(ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;

(iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

Section 9. Immunities from taxation

(a) The Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held—

(i) which discriminates against such obligation or security solely because it is issued by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held—

(i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

Section 10. Application of Article

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Bank of the detailed action which it has taken.

ARTICLE VIII. AMENDMENTS

(a) Any proposal to introduce modifications in this Agreement, whether emanating from a member, a governor or the Executive Directors, shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before the Board. If the proposed amendment is approved by the Board the Bank shall, by circular letter or telegram, ask all members whether they accept the proposed amendment. When three-fifths of the members, having four-fifths of the total voting power, have accepted the proposed amendment, the Bank shall certify the fact by a formal communication addressed to all members.

(b) Notwithstanding (a) above, acceptance by all members is required in the case of any amendment modifying

(i) the right to withdraw from the Bank provided in Article VI, Section 1;

(ii) the right secured by Article II, Section 3 (c);

(iii) the limitation on liability provided in Article II, Section 6.

(c) Amendments shall enter into force for all members three months after the date of the formal communication unless a shorter period is specified in the circular letter or telegram.

ARTICLE IX. INTERPRETATION

(a) Any question of interpretation of the provisions of this Agreement arising between any member and the Bank or between any members of the Bank shall be submitted to the Executive Directors for their decision. If the question particularly affects any member not entitled to appoint an executive director, it shall be entitled to representation in accordance with Article V, Section 4 (b).

(b) In any case where the Executive Directors have given a decision under (a) above, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the result of the reference to the Board, the Bank may, so far as it deems necessary, act on the basis of the decision of the Executive Directors.

(c) Whenever a disagreement arises between the Bank and a country which has ceased to be a member, or between the Bank and any member during the permanent suspension of the Bank, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Bank, another by the country involved and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the Permanent Court of International Justice or such other authority as may have been prescribed by regulation adopted by the Bank. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE X. APPROVAL DEEMED GIVEN

Whenever the approval of any member is required before any act may be done by the Bank, except in Article VIII, approval shall be deemed to have been given unless the member presents an objection within such reasonable period as the Bank may fix in notifying the member of the proposed act.

ARTICLE XI. FINAL PROVISIONS

Section 1. Entry into force

This Agreement shall enter into force when it has been signed on behalf of governments whose minimum subscriptions comprise not less than sixty-five percent of the total subscriptions set forth in Schedule A and when the instruments referred to in Section 2 (a) of this Article have been deposited on their behalf, but in no event shall this Agreement enter into force before May 1, 1945.

Section 2. Signature

(a) Each government on whose behalf this Agreement is signed shall deposit with the Government of the United States of America an instrument setting forth that it has accepted this Agreement in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.[1]

(b) Each government shall become a member of the Bank as from the date of the deposit on its behalf of the instrument referred to in (a) above, except that no government shall become a member before this Agreement enters into force under Section 1 of this Article.

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[1] [Instruments of acceptance have been deposited with the Department of State by the following countries: Belgium on Dec. 27, 1945; Bolivia on Dec. 27, 1945; Brazil on Jan. 14, 1946; Canada on Dec. 27, 1945; Chile on Dec. 31, 1945; China on Dec. 26, 1945; Costa Rica on Jan. 8, 1946; Czechoslovakia on Dec. 26, 1945; Dominican Republic on Dec. 28, 1945; Ecuador on Dec. 28, 1945; Egypt on Dec. 26, 1945; Ethiopia on Dec. 12, 1945; France on Dec. 27, 1945; Greece on Dec. 26, 1945; Guatemala on Dec. 28, 1945; Honduras on Dec. 26, 1945; Iceland on Dec. 27, 1945; India on Dec. 27, 1945; Iran on Dec. 29, 1945; Iraq on Dec. 26, 1945; Luxembourg on Dec. 26, 1945; Mexico on Dec. 31, 1945; Netherlands on Dec. 26, 1945; Norway on Dec. 27, 1945; Paraguay on Dec. 28, 1945; Peru on Dec. 31, 1945; Philippine Commonwealth on Dec. 21, 1945; Poland on Jan. 10, 1946; Union of South Africa on Dec. 26, 1945; United Kingdom of Great Britain and Northern Ireland on Dec. 27, 1945; United States of America on Dec. 20, 1945; Yugoslavia on Dec. 26, 1945.]

(c) The Government of the United States of America shall inform the governments of all countries whose names are set forth in Schedule A, and all governments whose membership is approved in accordance with Article II, Section 1 (b), of all signatures of this Agreement and of the deposit of all instruments referred to in (a) above.

(d) At the time this Agreement is signed on its behalf, each government shall transmit to the Government of the United States of America one one-hundredth of one percent of the price of each share in flold or United States dollars for the purpose of meeting administrative expenses of the Bank. This payment shall be credited on account of the payment to be made in accordance with Article II, Section 8 (a).

The Government of the United States of America shall hold such funds in a special deposit account and shall transmit them to the Board of Governors of the Bank when the initial meeting has been called under Section 3 of this Article. If this Agreement has not come into force by December 31, 1945, the Government of the United States of America shall return such funds to the governments that transmitted them.

(e) This Agreement shall remain open for signature at Washington on behalf of the governments of the countries whose names are set forth in Schedule A until December 31, 1945.

(f) After December 31, 1945, this Agreement shall be open for signature on behalf of the government of any country whose membership has been approved in accordance with Article II, Section 1 (b).

(g) By their signature of this Agreement, all governments accept in both on their own behalf and in respect of all their colonies, overseas territories, all territories under their protection, suzerainty, or authority and all territories in respect of which they exercise a mandate.

(h) In the case of governments whose metropolitan territories have been under enemy occupation, the deposit of the instrument referred to in (a) above may be delayed until one hundred and eighty days after the date on which these territories have been liberated. If, however, it is not deposited by any such government before the expiration of this period, the signature affixed on behalf of that government shall become void and the portion of its subscription paid under (d) above shall be returned to it.

(i) Paragraphs (d) and (h) shall come into force with regard to each signatory government as from the date of its signature.

Section 3. Inauguration of the Bank

(a) As soon as this Agreement enters into force under Section 1 of this Article, each member shall appoint a governor and the member to whom the largest number of shares is allocated in Schedule A shall call the first meeting of the Board of Governors.

(b) At the first meeting of the Board of Governors, arrangements shall be made for the selection of provisional executive directors. The governments of the five countries, to which the largest number of shares are allocated in Schedule A, shall appoint provisional executive directors. If one or more of such governments have not become members, the executive directorships which they would be entitled to fill shall remain vacant until they become members, or until January 1, 1946, whichever is the earlier. Seven provisional executive directors shall be elected in accordance with the provisions of Schedule B and shall remain in office until the date of the first regular election of executive directors which shall be held as soon as practicable after January 1, 1946.

(c) The Board of Governors may delegate to the provisional executive directors any powers except those which may not be delegated to the Executive Directors.

(d) The Bank shall notify members when it is ready to commence operations.

DONE at Washington, in a single copy which shall remain deposited in the archives of the Government of the United States of America, which shall transmit certified copies to all governments whose names are set forth in Schedule A and to all governments whose membership is approved in accordance with Article II, Section 1 (b).

For Australia:

For Belgium:
L. A. GOFFIN, *december 27. 1945*

For Bolivia:
V ANDRADE
December 27, 1945

For Brazil:
FERNANDO LOBO
27 Dco 1945

For Canada:
LESTER B PEARSON
Dec 27/45.

For Chile:
MARCIAL MORA M
Dec. 31 1945.—

For China:
WEI TAO-MING
December 27, 1945

For Colombia:

For Costa Rica:
F GUTIERREZ
December 27–1945.

For Cuba:
GMO BELT
December 31, 1945

For Czechoslovakia:
V. S. HURBAN
Dec 27–1945.

For the Dominican Republic:
EMILIO G GODOY
December 28–45.

For Ecuador:
GALO PLAZA
December 27–45

For Egypt:
ANIS AZER
December 27, 1945

For El Salvador:

For Ethiopia:
G. TESEMMA
Dec. 27, 1945.

For France:
H BONNET
27 Decembre 1945

For Greece:
C. P. DIAMANTOPOULOS
December 27. 1945.

For Guatemala:
JORGE GARCIA GRANADOS
27 de Diciembre de 1945

For Haiti:

For Honduras:
JULIÁN R CÁCERES
December 27, 1945

For Iceland:
THOR THORS
December 27, 1945

For India:
G. S. BAJPAI.
27.12.'45

For Iran:
HUSSEIN ALA
December 28th 1945.

For Iraq:
ALI JAWDAT *Dec 27 – 1945*

For Liberia:

For Luxembourg:
HUGUES LE GALLAIS
December 27th 1945

For Mexico:
A. ESPINOSA DE LOS MONTEROS, *Dec. 31st, 1945.*

For the Netherlands:
A. LOUDON
Dec. 27th 1945.–

For New Zealand:

For Nicaragua:

For Norway:
W. MUNTHE MORGENSTIERNE
December 27th 1945.

For Panama:

For Paraguay:
CELSO R. VELÁZQUEZ
December 27, 1945–

For Peru:
H FERNÁNDEZ DÁVILA
Dec 31, 1945.–

For the Philippine Commonwealth:
CARLOS P. ROMULO
December 27, 1945

For Poland:
OSKAR LANGE
December 27, 1945

For the Union of South Africa:
H T ANDREWS
December 27 1945.

For the Union of Soviet Socialist Republics:

For the United Kingdom of Great Britain and Northern Ireland:
HALIFAX.
Dec. 27. 1945.

For the United States of America:
FRED M. VINSON
Dec. 27, 1945.

For Uruguay:
CÉSAR MONTERO B.
Dec. 27 1945

For Venezuela:

For Yugoslavia:
STANOJE SIMIC *27 XII. 1945.*

SCHEDULE A.—*Subscriptions*

	Millions of dollars
Australia	200
Belgium	225
Bolivia	7
Brazil	105
Canada	325
Chile	35
China	600
Colombia	35
Costa Rica	2
Cuba	85
Czechoslovakia	125
Denmark [1]	
Dominican Republic	2
Ecuador	3.2
Egypt	40
El Salvador	1
Ethiopia	3
France	450
Greece	25
Guatemala	2
Haiti	2
Honduras	1
Iceland	1
India	400
Iran	24
Iraq	6
Liberia	.5
Luxembourg	10
Mexico	65
Netherlands	275
New Zealand	50
Nicaragua	.8
Norway	50
Panama	.2
Paraguay	.8
Peru	17.5
Philippine Commonwealth	15
Poland	125
Union of South Africa	100
Union of Soviet Socialist Republics	1200
United Kingdom	1300
United States	3175
Uruguay	10.5
Venezuela	10.5
Yugoslavia	40
Total	9100

[1] The quota of Denmark shall be determined by the Bank after Denmark accepts membership in accordance with these Articles of Agreement.

SCHEDULE B.—*Election of Executive Directors*

1. The election of the elective executive directors shall be by ballot of the Governors eligible to vote under Article V, Section 4 (b).

2. In balloting for the elective executive directors, each governor eligible to vote shall cast for one person all of the votes to which the member appointing him is entitled under Section 8 of Article V. The seven persons receiving the greatest number of votes shall be executive directors, except that no person who receives less than fourteen percent of the total of the votes which can be cast (eligible votes) shall be considered elected.

3. When seven persons are not elected on the first ballot, a second ballot shall be held in which the person who received the lowest number of votes shall be ineligible for election and in which there shall vote only (a) those governors who voted in the first ballot for a person not elected and (b) those governors whose votes for a person elected are deemed under 4 below to have raised the votes cast for that person above fifteen percent of the eligible votes.

4. In determining whether the votes cast by a governor are to be deemed to have raised the total of any person above fifteen percent of the eligible votes, the fifteen percent shall be deemed to include, first, the votes of the governor casting the largest number of votes for such person, then the votes of the governor casting the next largest number, and so on until fifteen percent is reached.

5. Any governor, part of whose votes must be counted in order to raise the total of any person above fourteen percent, shall be considered as casting all of his votes for such person even if the total votes for such person thereby exceed fifteen percent.

6. If, after the second ballot, seven persons have not been elected, further ballots shall be held on the same principles until seven persons have been elected, provided that after six persons are elected, the seventh may be elected by a simple majority of the remaining votes and shall be deemed to have been elected by all such votes.

List of Articles and Sections

Introductory Article
I. Purposes
II. Membership in and Capital of the Bank
1. Membership
2. Authorized capital
3. Subscription of shares
4. Issue price of shares
5. Division and calls of subscribed capital
6. Limitation on liability
7. Method of payment of subscriptions for shares
8. Time of payment of subscriptions
9. Maintenance of value of certain currency holdings of the Bank
10. Restriction on disposal of shares
III. General Provisions Relating to Loans and Guarantees
1. Use of resources
2. Dealings between members and the Bank
3. Limitations on guarantees and borrowings of the Bank
capital
4. Conditions on which the Bank may guarantee or make loans
5. Use of loans guaranteed, participated in or made by the Bank
IV. Operations
11. Methods of making or facilitating loans
2. Availability and transferability of currencies
3. Provision of currencies for direct loans
4. Payment provisions for direct loans
5. Guarantees
6. Special reserve
7. Method of meeting liabilities of the Bank in case of defaults
8. Miscellaneous operations
9. Warning to be placed on securities
10. Political activity prohibited
V. Organization and Management
1. Structure of the Bank
2. Board of Governors
3. Voting
4. Executive Directors
V. Organization and Management—Con.
5. President and staff
6. Advisory Council
7. Loan Committees
8. Relationship to other international organizations
9. Location of offices
10. Regional offices and councils
11. Depositories
12. Form of holdings of currency
13. Publication of reports and provision of information
14. Allocation of net income
VI. Withdrawal and suspension of membership: Suspension of Operations
1. Right of members to withdraw
2. Suspension of membership
3. Cessation of membership in International Monetary Fund
4. Settlement of accounts with governments ceasing to be members
5. Suspension of operations and settlement of obligations
VII. Status, Immunities and Privileges
1. Purposes of Article
2. Status of the Bank
3. Position of the Bank with regard to judicial process
4. Immunity of assets from seizure
5. Immunity of archives
6. Freedom of assets from restrictions
7. Privilege for communication
8. Immunities and privileges of officers and employees
9. Immunities from taxation
10. Application of Article
VIII. Amendments
IX. Interpretation
X. Approval deemed given
XI. Final Provisions
1. Entry into force
2. Signature
3. Inauguration of the Bank

SCHEDULES

Schedule A. Subscriptions
Schedule B. Election of Executive Directors

Exhibit VIII–C

[Pamphlet]

(Treaties and Other International Acts Series 1501)

INTERNATIONAL MONETARY FUND

Articles of Agreement Between the United States of America and Other Powers

Formulated at the United Nations Monetary and Financial Conference, Bretton Woods, New Hampshire, July 1 to July 22, 1944—Signed at Washington December 27, 1945—Instrument of Acceptance by the United States of America Deposited December 20, 1945—Effective December 27, 1945

Articles of Agreement of the International Monetary Fund

The Governments on whose behalf the present Agreement is signed agree as follows:

INTRODUCTORY ARTICLE

The International Monetary Fund is established and shall operate in accordance with the following provisions:

ARTICLE I. PURPOSES

The purposes of the International Monetary Fund are:

(i) To promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.

(ii) To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.

(iii) To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation.

(iv) To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of world trade.

(v) To give confidence to members by making the Fund's resources available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.

(vi) In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members.

The Fund shall be guided in all its decisions by the purposes set forth in this Article.

ARTICLE II. MEMBERSHIP

Section 1. Original members

The original members of the Fund shall be those of the countries represented at the United Nations Monetary and Financial Conference whose governments accept membership before the date specified in Article XX, Section 2 (e).

Section 2. Other members

Membership shall be open to the governments of other countries at such times and in accordance with such terms as may be prescribed by the Fund.

ARTICLE III. QUOTAS AND SUBSCRIPTIONS

Section 1. Quotas

Each member shall be assigned a quota. The quotas of the members represented at the United Nations Monetary and Financial Conference which accept membership before the date specified in Article XX, Section 2 (e), shall be those set forth in Schedule A. The quotas of other members shall be determined by the Fund.

Section 2. Adjustment of quotas

The Fund shall at intervals of five years review, and if it deems it appropriate propose an adjustment of, the quotas of the members. It may also, if it thinks fit, consider at any other time the adjustment of any particular quota at the request of the member concerned. A four-fifths majority of the total voting power shall be required for any change in quotas and no quota shall be changed without the consent of the member concerned.

Section 3. Subscriptions: time, place, and form of payment

(a) The subscription of each member shall be equal to its quota and shall be paid in full to the Fund at the appropriate depository on or before the date when the member becomes eligible under Article XX, Section 4 (c) or (d), to buy currencies from the Fund.

(b) Each member shall pay in gold, as a minimum, the smaller of
(i) twenty-five percent of its quota; or
(ii) ten percent of its net official holdings of gold and United States dollars as at the date when the Fund notifies members under Article XX, Section 4 (a) that it will shortly be in a position to begin exchange transactions.

Each member shall furnish to the Fund the data necessary to determine its net official holdings of gold and United States dollars.

(c) Each member shall pay the balance of its quota in its own currency.

(d) If the net official holdings of gold and United States dollars of any member as at the date referred to in (b) (ii) above are not ascertainable because its territories have been occupied by the enemy, the Fund shall fix an appropriate alternative date for determining such holdings. If such date is later than that on which the country becomes eligible under Article XX, Section 4 (c) or (d), to buy currencies from the Fund, the Fund and the member shall agree on a provisional gold payment to be made under (b) above, and the balance of the member's subscription shall be paid in the member's currency, subject to appropriate adjustment between the member and the Fund when the net official holdings have been ascertained.

Section 4. Payments when quotas are changed

(a) Each member which consents to an increase in its quota shall, within thirty days after the date of its consent, pay to the Fund twenty-five percent of the increase in gold and the balance in its own currency. If, however, on the date when the member consents to an increase, its monetary reserves are less than its new quota, the Fund may reduce the proportion of the increase to be paid in gold.

(b) If a member consents to a reduction in its quota, the Fund shall, within thirty days after the date of the consent, pay to the member an amount equal to the reduction. The payment shall be made in the member's currency and in such amount of gold as may be necessary to prevent reducing the Fund's holdings of the currency below seventy-five percent of the new quota.

Section 5. Substitution of securities for currency

The Fund shall accept from any member in place of any part of the member's currency which in the judgment of the Fund is not needed for its operations, notes or similar obligations issued by the member or the depository designated by the member under Article XIII, Section 2, which shall be non-negotiable, non-interest bearing and payable at their par value on demand by crediting the account of the Fund in the designated depository. This Section shall apply not only to currency subscribed by members but also to any currency otherwise due to, or acquired by, the Fund.

ARTICLE IV. PAR VALUES OF CURRENCIES

Section 1. Expression of par values

(a) The par value of the currency of each member shall be expressed in terms of gold as a common denominator or in terms of the United States dollar of the weight and fineness in effect on July 1, 1944.

(b) All computations relating to currencies of members for the purpose of applying the provisions of this Agreement shall be on the basis of their par values.

Section 2. Gold purchases based on par values

The Fund shall prescribe a margin above and below par value for transactions in gold by members, and no member shall buy gold at a price above par value plus the prescribed margin, or sell gold at a price below par value minus the prescribed margin.

Section 3. Foreign exchange dealings based on parity

The maximum and the minimum rates for exchange transactions between the currencies of members taking place within their territories shall not differ from parity.

(i) in the case of spot exchange transactions, by more than one percent; and

(ii) in the case of other exchange transactions, by a margin which exceeds the margin for spot exchange transactions by more than the Fund considers reasonable.

Section 4. Obligations regarding exchange stability

(a) Each member undertakes to collaborate with the Fund to promote exchange stability, to maintain orderly exchange arrangements with other members, and to avoid competitive exchange alterations.

(b) Each member undertakes, through appropriate measures consistent with this Agreement, to permit within its territories exchange transactions between its currency and the currencies of other members only within the limits prescribed under Section 3 of this Article. A member whose monetary authorities, for the settlement of international transactions, in fact freely buy and sell gold within the limits prescribed by the Fund under Section 2 of this Article shall be deemed to be fulfilling this undertaking.

Section 5. Changes in par values

(a) A member shall not propose a change in the par value of its currency except to correct a fundamental disequilibrium.

(b) A change in the par value of a member's currency may be made only on the proposal of the member and only after consultation with the Fund.

(c) When a change is proposed, the Fund shall first take into account the changes, if any, which have already taken place in the initial par value of the member's currency as determined under Article XX, Section 4. If the proposed change, together with all previous changes, whether increases or decreases,

(i) does not exceed ten percent of the initial par value, the Fund shall raise no objection,

(ii) does not exceed a further ten percent of the initial par value, the Fund may either concur or object, but shall declare its attitude within seventy-two hours if the member so requests,

(iii) is not within (i) or (ii) above, the Fund may either concur or object, but shall be entitled to a longer period in which to declare its attitude.

(d) Uniform changes in par values made under Section 7 of this Article shall not be taken into account in determining whether a proposed change falls within (i), (ii) or (iii) of (c) above.

(e) A member may change the par value of its currency without the concurrence of the Fund if the change does not affect the international transactions of members of the Fund.

(f) The Fund shall concur in a proposed change which is within the terms of (c) (ii) or (c) (iii) above if it is satisfied that the change is necessary to correct a fundamental disequilibrium. In particular, provided it is so satisfied, it shall not object to a proposed change because of the domestic social or political policies of the member proposing the change.

Section 6. Effect of unauthorized changes

If a member changes the par value of its currency despite the objection of the Fund, in cases where the Fund is entitled to object, the member shall be ineligible to use the resources of the Fund unless the Fund otherwise determines; and if, after the expiration of a reasonable period, the difference between the member and the Fund continues, the matter shall be subject to the provisions of Article XV, Section 2 (b).

Section 7. Uniform changes in par values

Notwithstanding the provisions of Section 5 (b) of this Article, the Fund by a majority of the total voting power may make uniform proportionate changes in the parvalues of the currencies of all members, provided each such change is approved by every member which has ten percent or more of the total of the quotas. The par value of a member's currency shall, however, not be changed under this provision if, within seventy-two hours of the Fund's action, the member informs the Fund that it does not wish the par value of its currency to be changed by such action.

Section 8. Maintenance of gold value of the Fund's assets

(a) The gold value of the Fund's assets shall be maintained notwithstanding changes in the par or foreign exchange value of the currency of any member.

(b) Whenever (i) the par value of a member's currency is reduced, or (ii) the foreign exchange value of a member's currency has, in the opinion of the Fund, depreciated to a significant extent within that member's territories, the member shall pay to the Fund within a reasonable time an amount of its own currency equal to the reduction in the gold value of its currency held by the Fund.

(c) Whenever the par value of a member's currency is increased, the Fund shall return to such member within a reasonable time an amount in its currency equal to the increase in the gold value of its currency held by the Fund.

(d) The provisions of this Section shall apply to a uniform proportionate change in the par values of the currencies of all members, unless at the time when such a change is proposed the Fund decides otherwise.

Section 9. Separate currencies within a member's territories

A member proposing a change in the par value of its currency shall be deemed, unless it declares otherwise, to be proposing a corresponding change in the par value of the separate currencies of all territories in respect of which it has accepted this Agreement under Article XX, Section 2 (g). It shall, however, be open to a member to declare that its proposal relates either to the metropolitan currency alone, or only to one or more specified separate currencies, or to the metropolitan currency and one or more specified separate currencies.

ARTICLE V. TRANSACTIONS WITH THE FUND

Section 1. Agencies dealing with the Fund

Each member shall deal with the Fund only through its Treasury, central bank, stabilization fund or other similar fiscal agency and the Fund shall deal only with or through the same agencies.

Section 2. Limitation on the Fund's operations

Except as otherwise provided in this Agreement, operations on the account of the Fund shall be limited to transactions for the purpose of supplying a member, on the initiative of such member, with the currency of another member in exchange for gold or for the currency of the member desiring to make the purchase.

Section 3. Conditions governing use of the Fund's resources

(a) A member shall be entitled to buy the currency of another member from the Fund in exchange for its own currency subject to the following conditions:

(i) The member desiring to purchase the currency represents that it is presently needed for making in that currency payments which are consistent with the provisions of this Agreement;

(ii) The Fund has not given notice under Article VII, Section 3, that its holdings of the currency desired to have become scarce;

(iii) The proposed purchase would not cause the Fund's holdings of the purchasing member's currency to increase by more than twenty-five percent of its quota during the period of twelve months ending on the date of the purchase nor to exceed two hundred percent of its quota, but the twenty-five percent limitation shall apply only to the extent that the Fund's holdings of the member's currency have been brought above seventy-five percent of its quota if they had been below that amount;

(iv) The Fund has not previously declared under Section 5 of this Article, Article IV, Section 6, Article VI, Section 1, or Article XV, Section 2 (a), that the member desiring to purchase is ineligible to use the resources of the Fund.

(b) A member shall not be entitled without the permission of the Fund to use the Fund's resources to acquire currency to hold against forward exchange transactions.

Section 4. Waiver of conditions

The Fund may in its discretion, and on terms which safeguard its interests, waive any of the conditions prescribed in Section 3 (a) of this Article, especially in the case of members with a record of avoiding large or continuous use of the Fund's resources. In making a waiver it shall take into consideration periodic or exceptional requirements of the member requesting the waiver. The Fund shall also take into consideration a member's willingness to pledge as collateral security gold, silver, securities, or other acceptable assets having a value sufficient in the opinion of the Fund to protect its interests and may require as a condition of waiver the pledge of such collateral security.

Section 5. Ineligibility to use the Fund's resources.

Whenever the Fund is of the opinion that any member is using the resources of the Fund in a manner contrary to the purposes of the Fund, it shall present to the member a report setting forth the views of the Fund and prescribing a suitable time for reply. After presenting such a report to a member, the Fund may limit the use of its resources by the member. If no reply to the report is received from the member within the prescribed time, or if the reply received is unsatisfactory, the Fund may continue to limit the member's use of the Fund's

resources or may, after giving reasonable notice to the member, declare it ineligible to use the resources of the Fund.

Section 6. Purchases of currencies from the Fund for gold.

(a) Any member desiring to obtain, directly or indirectly, the currency of another member for gold shall, provided that it can do so with equal advantage, acquire it by the sale of gold to the Fund.

(b) Nothing in this Section shall be deemed to preclude any member from selling in any market gold newly produced from mines located within its territories.

Section 7. Repurchase by a member of its currency held by the Fund

(a) A member may repurchase from the Fund and the Fund shall sell for gold any part of the Fund's holdings of its currency in excess of its quota.

(b) At the end of each financial year of the Fund, a member shall repurchase from the Fund with gold or convertible currencies, as determined in accordance with Schedule B, part of the Fund's holdings of its currency under the following conditions:

(i) Each member shall use in repurchases of its own currency from the Fund an amount of its monetary reserve equal in value to one-half of any increase that has occurred during the year in the Fund's holdings of its currency plus one-half of any increase, or minus one-half of any decrease, that has occurred during the year in the member's monetary reserves. This rule shall not apply when a member's monetary reserves have decreased during the year by more than the Fund's holdings of its currency have increased.

(ii) If after the repurchase described in (i) above (if required) has been made, a member's holdings of another member's currency (or of gold acquired from that member) are found to have increased by reason of transactions in terms of that currency with other members or persons in their territories, the member whose holdings of such currency (or gold) have thus increased shall use the increase to repurchase its own currency from the Fund.

(c) None of the adjustments described in (b) above shall be carried to a point at which

(i) the member's monetary reserves are below its quota, or

(ii) the Fund's holdings of its currency are below seventy-five percent of its quota, or

(iii) the Fund's holdings of any currency required to be used are above seventy-five percent of the quota of the member concerned.

Section 8. Charges

(a) Any member buying the currency of another member from the Fund in exchange for its own currency shall pay a service charge uniform for all members of three-fourths percent in addition to the parity price. The Fund in its discretion may increase this service charge to not more than one percent or reduce it to not less than one-half percent.

(b) The Fund may levy a reasonable handling charge on any member buying gold from the Fund or selling gold to the Fund.

(c) The Fund shall levy charges uniform for all members which shall be payable by any member on the average daily balances of its currency held by the Fund in excess of its quota. These charges shall be at the following rates:

(i) *On amounts not more than twenty-five percent in excess of the quota*: no charge for the first three months; one-half percent per annum for the next nine months; and thereafter an increase in the charge of one-half percent for each subsequent year.

(ii) *On amounts more than twenty-five percent and not more than fifty percent in excess of the quota*: an additional one-half percent for the first year; and an additional one-half percent for each subsequent year.

(iii) *On each additional bracket of twenty-five percent in excess of the quota*: an additional one-half percent for the first year; and an additional one-half percent for each subsequent year.

(d) Whenever the Fund's holdings of a member's currency are such that the charge applicable to any bracket for any period has reached the rate of four percent per annum, the Fund and the member shall consider means by which the Fund's holdings of the currency can be reduced. Thereafter, the charges shall rise in accordance with the provisions of (c) above until they reach five percent and failing agreement, the Fund may then impose such charges as it deems appropriate.

(e) The rates referred to in (c) and (d) above may be changed by a three-fourths majority of the total voting power.

(f) All charges shall be paid in gold. If, however, the member's monetary reserves are less than one-half of its quota, it shall pay in gold only that proportion of the charges due which such reserves bear to one-half of its quota, and shall pay the balance in its own currency.

ARTICLE VI. CAPITAL TRANSFERS

Section 1. Use of the Fund's resources for capital transfers

(a) A member may not make net use of the Fund's resources to meet a large or sustained outflow of capital, and the Fund may request a member to exercise controls to prevent such use of the resources of the Fund. If, after receiving such a request, a mener fails to exercise appropriate controls, the Fund may declare the member ineligible to use the resources of the Fund.

(b) Nothing in this Section shall be deemed

(i) to prevent the use of the resources of the Fund for capital transactions of reasonable amount required for the expansion of exports or in the ordinary course of trade, banking or other business, or

(ii) to affect capital movements which are met out of a member's own resources of gold and foreign exchange, but members undertake that such capital movements will be in accordance with the purposes of the Fund.

Section 2. Special provisions for capital transfers

If the Fund's holding of the currency of a member have remained below seventy-five percent of its quota for an immediately preceding period of not less than six months, such member, if it has not been declared ineligible to use the resources of the Fund under Section 1 of this Article, Article IV, Section 6, Article V, Section 5, or Article XV, Section 2 (a), shall be entitled, notwithstanding the provisions of Section 1 (a) of this Article, to buy the currency of another member from the Fund with its own currency for any purpose, including capital transfers. Purchases for capital transfers under this Section shall not, however, be permitted if they have the effect of raising the Fund's holdings of the currency of the member desiring to purchase above seventy-five percent of its quota, or of reducing the Fund's holdings of the currency desired below seventy-five percent of the quota of the member whose currency is desired.

Section 3. Controls of capital transfers

Members may exercise such controls as are necessary to regulate international capital movements, but no member may exercise these controls in a manner which will restrict payments for current transactions or which will unduly delay transfers of funds in settlement of commitments, except as provided in Article VII, Section 3 (b), and in Article XIV, Section 2.

ARTICLE VII. SCARCE CURRENCIES

Section 1. General scarcity of currency

If the Fund finds that a general scarcity of a particular currency is developing, the Fund may so inform members and may issue a report setting forth the causes of the scarcity and containing recommendations designed to bring it to an end. A representative of the member whose currency is involved shall participate in the preparation of the report.

Section 2. Measures to replenish the Fund's holding of scarce currencies

The Fund may, if it deems such action appropriate to replenish its holdings of any member's currency, take either or both of the following steps:

(i) Propose to the member that, on terms and conditions agreed between the Fund and the member, the latter lend its currency to the Fund or that, with the approval of the member, the Fund borrow such currency from some other source either within or outside the territories of the member, but no member shall be under any obligation to make such loans to the Fund or to approve the borrowing of its currency by the Fund from any other source.

(ii) Require the member to sell its currency to the Fund for gold.

Section 3. Scarcity of the Fund's holdings

(a) If it becomes evident to the Fund that the demand for a member's currency seriously threatens the Fund's ability to supply that currency, the Fund, whether or not it has issued a report under Section 1 of this Article, shall formally

declare such currency scarce and shall thenceforth apportion its existing and accruing supply of the scarce currency with due regard to the relative needs of members, the general international economic situation and any other pertinent considerations. The Fund shall also issue a report concerning its action.

(b) A formal declaration under (a) above shall operate as an authorization to any member, after consultation with the Fund, temporarily to impose limitations on the freedom of exchange operations in the scarce currency. Subject to the provisions of Article IV, Sections 3 and 4, the member shall have complete jurisdiction in determining the nature of such limitations, but they shall be no more restrictive than is necessary to limit the demand for the scarce currency to the supply held by, or accruing to, the member in question; and they shall be relaxed and removed as rapidly as conditions permit.

(c) The authorization under (b) above shall expire whenever the Fund formally declares the currency in question to be no longer scarce.

Section 4. Administration of restrictions

Any member imposing restrictions in respect of the currency of any other member pursuant to the provisions of Section 3 (b) of this Article shall give sympathetic consideration to any representations by the other member regarding the administration of such restrictions.

Section 5. Effect of other international agreements on restrictions

Members agree not to invoke the obligations of any engagements entered into with other members prior to this Agreement in such a manner as will prevent the operation of the provisions of this Article.

ARTICLE VIII. GENERAL OBLIGATIONS OF MEMBERS

Section 1. Introduction

In addition to the obligations assumed under other articles of this Agreement, each member undertakes the obligations set out in this Article.

Section 2. Avoidance of restrictions on current payments

(a) Subject to the provisions of Article VII, Section 3 (b), and Article XIV, Section 2, no member shall, without the approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions.

(b) Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member. In addition, members may, by mutual accord, cooperate in measures for the purpose of making the exchange control regulations of either member more effective, provided that such measures and regulations are consistent with this Agreement.

Section 3. Avoidance of discriminatory currency practices

No member shall engage in, or permit any of its fiscal agencies referred to in Article V, Section 1, to engage in, any discriminatory currency arrangements or multiple currency practices except as authorized under this Agreement or approved by the Fund. If such arrangements and practices are engaged in at the date when this Agreement enters into force the member concerned shall consult with the Fund as to their progressive removal unless they are maintained or imposed under Article XIV, Section 2, in which case the provisions of Section 4 of that Article shall apply.

Section 4. Convertibility of foreign held balances

(a) Each member shall buy balances of its currency held by another member if the latter, in requesting the purchase, represents

(i) that the balances to be bought have recently acquired as a result of current transactions; or

(ii) that their conversion is needed for making payments for current transactions.

The buying member shall have the option to pay either in the currency of the member making the request or in gold.

(b) The obligation in (a) above shall not apply

(i) when the convertibility of the balances has been restricted consistently with Section 2 of this Article, or Article VI, Section 3; or

(ii) when the balances have accumulated as a result of transactions effected before the removal by a member of restrictions maintained or imposed under Article XIV, Section 2; or

(iii) when the balances have been acquired contrary to the exchange regulations of the member which is asked to buy them; or

(iv) when the currency of the member requesting the purchase has been declared scarce under Article VII, Section 3 (a); or

(v) when the member requested to make the purchase is for any reason not entitled to buy currencies of other members from the Fund for its own currency.

Section 5. Furnishing of information

(a) The Fund may require members to furnish it with such information as it deems necessary for its operations, including, as the minimum necessary for the effective discharge of the Fund's duties, national data on the following matters:

(i) Official holdings at home and abroad, of (1) gold, (2) foreign exchange.

(ii) Holdings at home and abroad by banking and financial agencies, other than official agencies, of (1) gold, (2) foreign exchange.

(iii) Production of gold.

(iv) Gold exports and imports according to countries of destination and origin.

(v) Total exports and imports of merchandise, in terms of local currency values, according to countries of destination and origin.

(vi) International balance of payments, including (1) trade in goods and services, (2) gold transactions, (3) known capital transactions, and (4) other items.

(vii) International investment position, *i. e.*, investments within the territories of the member owned abroad and investments abroad owned by persons in its territories so far as it is possible to furnish this information.

(viii) National income.

(ix) Price indices, *i. e.*, indices of commodity prices in wholesale and retail markets and of export and import prices.

(x) Buying and selling rates for foreign currencies.

(xi) Exchange controls, *i. e.*, a comprehensive statement of exchange controls in effect at the time of assuming membership in the Fund and details of subsequent changes as they occur.

(xii) Where official clearing arrangements exist, details of amounts awaiting clearance in respect of commercial and financial transactions, and of the length of time during which such arrears have been outstanding.

(b) In requesting information the Fund shall take into consideration the varying ability of members to furnish the data requested. Members shall be under no obligation to furnish information in such detail that the affairs of individuals or corporations are disclosed. Members undertake, however, to furnish the desired information in as detailed and accurate a manner as is practicable, and, so far as possible, to avoid mere estimates.

(c) The Fund may arrange to obtain further information by agreement with members. It shall act as a centre for the collection and exchange of information on monetary and financial problems, thus facilitating the preparation of studies designed to assist members in developing policies which further the purposes of the Fund.

Section 6. Consultation between members regarding existing international agreements

Where under this Agreement a member is authorized in the special or temporary circumstances specified in the Agreement to maintain or establish restrictions on exchange transactions, and there are other engagements between members entered into prior to this Agreement which conflict with the application of such restrictions, the parties to such engagements will consult with one another with a view to making such mutually acceptable adjustments as may be necessary. The provisions of this Article shall be without prejudice to the operation of Article VII, Section 5.

ARTICLE IX. STATUS, IMMUNITIES AND PRIVILEGES

Section 1. Purposes of Article

To enable the Fund to fulfill the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Fund in the territories of each member.

Section 2. Status of the Fund

The Fund shall possess full juridical personality, and, in particular, the capacity:

(i) to contract;

(ii) to acquire and dispose of immovable and movable property;

(iii) to institute legal proceedings.

Section 3. Immunity from judicial process

The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

Section 4. Immunity from other action

Property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Section 5. Immunity of archives

The archives of the Fund shall be inviolable.

Section 6. Freedom of assets from restrictions

To the extent necessary to carry out the operations provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls and moratoria of any nature.

Section 7. Privilege for communications

The official communications of the Fund shall be accorded by members the same teratment as the official communications of other members.

Section 8. Immunities and privileges of officers and employees

All governors, executive directors, alternates, officers and employees of the Fund

(i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives this immunity.

(ii) Not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members.

(iii) shall be granted the same treatment in respect of traveling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

Section 9. Immunities from taxation

(a) The Fund, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments, paid by the Fund to executive directors, alternates, officers or employees of the Fund who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held.

(i) which discriminates against such obligation or security solely because of its origin; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.

Section 10. Application of Article

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Fund of the detailed action which it has taken.

ARTICLE X. RELATIONS WITH OTHER INTERNATIONAL ORGANIZATIONS

The Fund shall cooperate within the terms of this Agreement with any general international organization and with public international organizations having

specialized responsibilities in related fields. Any arrangements for such cooperation which would involve a modification of any provision of this Agreement may be effected only after amendment to this Agreement under Article XVII.

ARTICLE XI. RELATIONS WITH NON-MEMBER COUNTRIES

Section 1. Undertakings regarding relations with non-member countries

Each member undertakes:

(i) Not to engage in, nor to permit any of its fiscal agencies referred to in Article V, section 1, to engage in, any transactions with a non-member or with persons in a non-member's territories which would be contrary to the provisions of this Agreement or the purposes of the Fund;

(ii) Not to cooperate with a non-member or with persons in a non-member's territories in practices which would be contrary to the provisions of this Agreement or the purposes of the Fund; and

(iii) To cooperate with the Fund with a view to the application in its territories of appropriate measures to prevent transactions with non-members or with persons in their territories which would be contrary to the provisions of this Agreement or the purposes of the Fund.

Section 2. Restrictions on transactions with non-member countries

Nothing in this Agreement shall affect the right of any member to impose restrictions on exchange transactions with non-members or with persons in their territories unless the Fund finds that such restrictions prejudice the interests of members and are contrary to the purposes of the Fund.

ARTICLE XII. ORGANIZATION AND MANAGEMENT

Section 1. Structure of the Fund

The Fund shall have a Board of Governors, Executive Directors, a Managing Director and a staff.

Section 2. Board of Governors

(a) All powers of the Fund shall be vested in the Board of Governors, consisting of one governor and one alternate appointed by each member in such manner as it may determine. Each governor and each alternate shall serve for five years, subject to the pleasure of the member appointing him, and may be reappointed. No alternate may vote except in the absence of his principal. The Board shall select one of the governors as chairman.

(b) The Board of Governors may delegate to the Executive Directors authority to exercise any powers of the Board, except the power to:

(i) Admit new members and determine the conditions of their admission.

(ii) Approve a revision of quotas.

(iii) Approve a uniform change in the par value of the currencies of all members.

(iv) Make arrangements to cooperate with other international organizations (other than informal arrangements of a temporary or administrative character).

(v) Determine the distribution of the net income of the Fund.

(vi) Require a member to withdraw.

(vii) Decide to liquidate the Fund.

(viii) Decide appeals from interpretations of this Agreement given by the Executive Directors.

(c) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board or called by the Executive Directors. Meetings of the Board shall be called by the Directors whenever requested by five members or by members having one quarter of the total voting power.

(d) A quorum for any meeting of the Board of Governors shall be a majority of the governors exercising not less than two-thirds of the total voting power.

(e) Each governor shall be entitled to cast the number of votes alloted under Section 5 of this Article to the member appointing him.

(f) The Board of Governors may by regulation establish a procedure whereby the Executive Directors, when they deem such action to be in the best interests of the Fund, may obtain a vote of the governors on a specific question without calling a meeting of the Board.

(g) The Board of Governors, and the Executive Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Fund.

(h) Governors and alternates shall serve as such without compensation from the Fund, but the Fund shall pay them reasonable expenses incurred in attending meetings.

(i) The Board of Governors shall determine the remuneration to be paid to the Executive Directors and the salary and terms of the contract of service of the Managing Director.

Section 3. Executive Directors

(a) The Executive Directors shall be responsible for the conduct of the general operations of the Fund, and for this purpose shall exercise all the powers delegated to them by the Board of Governors.

(b) There shall be not less than twelve directors, who need not be governors, and of whom

(i) Five shall be appointed by the five members having the largest quotas;

(ii) Not more than two shall be appointed when the provisions of (c) below apply;

(iii) Five shall be elected by the members not entitled to appoint directors other than the American Republics; and

(iv) Two shall be elected by the American Republics not entitled to appoint directors.

For the purposes of this paragraph, members means governments of countries whose names are set forth in Schedule A, whether they become members in accordance with Article XX or in accordance with Article II, Section 2. When governments of other countries become members, the Board of Governors may, by a four-fifths majority of the total voting power, increase the number of directors to be elected.

(c) If, at the second regular election of directors and thereafter, the members entitled to appoint directors under (b) (i) above do not include the two members, the holdings of whose currencies by the Fund have been, on the average over the preceding two years, reduced below their quotas by the largest absolute amounts in terms of gold as a common denominator, either one or both of such members, as the case may be, shall be entitled to appoint a director.

(d) Subject to Article XX, Section 8 (b) elections of elective directors shall be conducted at intervals of two years in accordance with the provisions of Schedule C, supplemented by such regulations as the Fund deems appropriate. Whenever the Board of Governors increases the number of directors to be elected under (b) above, it shall issue regulations making appropriate changes in the proportion of votes required to elect directors under the provisions of Schedule C.

(e) Each director shall appoint an alternate with full power to act for him when he is not present. When the directors appointing them are present, alternates may participate in meetings but may not vote.

(f) Directors shall continue in office until their successors are appointed or elected. If the office of an elected director becomes vacant more than ninety days before the end of his term, another director shall be elected for the remainder of the term by the members who elected the former director. A majority of the votes cast shall be required for election. While the office remains vacant, the alternate of the former director shall exercise his powers, except that of appointing an alternate.

(g) The Executive Directors shall function in continuous session at the principal office of the Fund and shall meet as often as the business of the Fund may require.

(h) A quorum for any meeting of the Executive Directors shall be a majority of the directors representing not less than one-half of the voting power.

(i) Each appointed director shall be entitled to cast the number of votes allotted under Section 5 of this Article to the member appointing him. Each elected director shall be entitled to cast the number of votes which counted towards his election. When the provisions of Section 5 (b) of this Article are applicable, the votes which a director would otherwise be entitled to cast shall be increased or decreased correspondingly. All the votes which a director is entitled to cast shall be cast as a unit.

(j) The Board of Governors shall adopt regulations under which a member not entitled to appoint a director under (b) above may send a representative to attend any meeting of the Executive Directors when a request made by, or a matter particularly affecting, that member is under consideration.

(k) The Executive Directors may appoint such committees as they deem advisable. Membership of committees need not be limited to governors or directors or their alternates.

Section 4. Managing Director and staff

(a) The Executive Directors shall select a Managing Director who shall not be a governor or an executive director. The Managing Director shall be chairman of the Executive Directors, but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors, but shall not vote at such meetings. The Managing Director shall cease to hold office when the Executive Directors so decide.

(b) The Managing Director shall be chief of the operating staff of the Fund and shall conduct, under the direction of the Executive Directors, the ordinary business of the Fund. Subject to the general control of the Executive Directors, he shall be responsible for the organization, appointment and dismissal of the staff of the Fund.

(c) The Managing Director and the staff of the Fund, in the discharge of their functions, shall owe their duty entirely to the Fund and to no other authority. Each member of the Fund shall respect the international character of this duty and shall refrain from all attempts to influence any of the staff in the discharge of his functions.

(d) In appointing the staff the Managing Director shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographical basis as possible.

Section 5. Voting

(a) Each member shall have two hundred fifty votes plus one additional vote for each part of its quota equivalent to one hundred thousand United States dollars.

(b) Whenever voting is required under Article V, Section 4 or 5, each member shall have the number of votes to which it is entitled under (a) above, adjusted:

(i) by the addition of one vote for the equivalent of each four hundred thousand United States dollars of net sales of its currency up to the date when the vote is taken, or

(ii) by the subtraction of one vote for the equivalent of each four hundred thousand United States dollars of its net purchases of the currencies of other members up to the date when the vote is taken

provided, that neither net purchases nor net sales shall be deemed at any time to exceed an amount equal to the quota of the member involved.

(c) For the purpose of all computations under this Section, United States dollars shall be deemed to be of the weight and fineness in effect on July 1, 1944, adjusted for any uniform change under Article IV, Section 7, if a waiver is made under Section 8 (d) of that Article.

(d) Except as otherwise specifically provided, all decisions of the fund shall be made by a majority of the votes cast.

Section 6. Distribution of net income

(a) The Board of Governors shall determine annually what part of the Fund's net income shall be placed to reserve and what part, if any, shall be distributed.

(b) If any distribution is made, there shall first be distributed a two percent non-cumulative payment to each member on the amount by which seventy-five percent of its quota exceeded the Fund's average holdings of its currency during that year. The balance shall be paid to all members in proportion to their quotas. Payments to each member shall be made in its own currency.

Section 7. Publication of reports

(a) The Fund shall publish an annual report containing an audited statement of its accounts, and shall issue, at intervals of three months or less, a summary statement of its transactions and its holdings of gold and currencies of members.

(b) The Fund may publish such other reports as it deems desirable for carrying out its purposes.

Section 8. Communication of views to members

The Fund shall at all times have the right to communicate its views informally to any member on any matter arising under this Agreement. The Fund may, by a two-thirds majority of the total voting power, decide to publish a report

made to a member regarding its monetary or economic conditions and developments which directly tend to produce a serious disequilibrium in the international balance of payments of members. If the member is not entitled to appoint an executive director, it shall be entitled to representation in accordance with Section 3 (j) of this Article. The Fund shall not publish a report involving changes in the fundamental structure of the economic organization of members.

ARTICLE XIII. OFFICES AND DEPOSITORIES

Section 1. Location of offices

The principal office of the Fund shall be located in the territory of the member having the largest quota, and agencies or branch offices may be established in the territories of other members.

Section 2. Depositories

(a) Each member country shall designate its central bank as a depository for all the Fund's holdings of its currency, or if it has no central bank it shall designate such other institution as may be acceptable to the Fund.

(b) The Fund may hold other assets, including gold, in the depositories designated by the five members having the largest quotas and in such other designated depositories as the Fund may select. Initially, at least one-half of the holdings of the Fund shall be held in the depository designated by the member in whose territories the Fund has its principal office and at least forty percent shall be held in the depositories designated by the remaining four members referred to above. However, all transfers of gold by the Fund shall be made with due regard to the costs of transport and anticipated requirements of the Fund. In an emergency the Executive Directors may transfer all or any part of the Fund's gold holdings to any place where they can be adequately protected.

Section 3. Guarantee of the Fund's assets

Each member guarantees all assets of the Fund against loss resulting from failure or default on the part of the depository designated by it.

ARTICLE XIV. TRANSITIONAL PERIOD

Section 1. Introduction

The Fund is not intended to provide facilities for relief or reconstruction or to deal with international indebtedness arising out of the war.

Section 2. Exchange restrictions

In the post-war transitional period members may, notwithstanding the provisions of any other articles of this Agreement, maintain and adapt to changing circumstances (and, in the case of members whose territories have been occupied by the enemy, introduce where necessary) restrictions on payments and transfers for current international transactions. Members shall, however, have continuous regard in their foreign exchange policies to the purposes of the Fund; and, as soon as conditions permit, they shall take all possible measures to develop such commercial and financial arrangements with other members as will facilitate international payments and the maintenance of exchange stability. In particular, members shall withdraw restrictions maintained or imposed under this Section as soon as they are satisfied that they will be able, in the absence of such restrictions, to settle their balance of payments in a manner which will not unduly encumber their access to the resources of the Fund.

Section 3. Notification to the Fund

Each member shall notify the Fund before it becomes eligible under Article XX, Section 4 (c) or (d), to buy currency from the Fund, whether it intends to avail itself of the transitional arrangements in Section 2 of this Article, or whether it is prepared to accept the obligations of Article VIII, Sections 2, 3, and 4. A member availing itself of the transitional arrangements shall notify the Fund as soon thereafter as it is prepared to accept the above-mentioned obligations.

Section 4. Action of the Fund relating to restrictions

Not later than three years after the date on which the Fund begins operations and in each year thereafter, the Fund shall report on the restrictions still in force under Section 2 of this Article. Five years after the date on which the Fund begins operations, and in each year thereafter, any member still retaining any

restrictions inconsistent with Article VIII, Sections 2, 3, or 4, shall consult the Fund as to their further retention. The Fund may, if it deems such action necessary in exceptional circumstances, make representations to any member that conditions are favorable for the withdrawal of any particular restriction, or for the general abandonment of restrictions, inconsistent with the provisions of any other articles of this Agreement. The member shall be given a suitable time to reply to such representations. If the Fund finds that the members persists in maintaining restrictions which are inconsistent with the purposes of the Fund, the member shall be subject to Article XV, Section 2 (a).

Section 5. Nature of transitional period

In its relations with members, the Fund shall recognize that the post-war transitional period will be one of change and adjustment and in making decisions on requests occasioned thereby which are presented by any member it shall give the member the benefit of any reasonable doubt.

ARTICLE XV. WITHDRAWAL FROM MEMBERSHIP

Section 1. Right of members to withdraw

Any member may withdraw from the Fund at any time by transmitting a notice in writing to the Fund at its principal office. Withdrawal shall become effective on the date such notice is received.

Section 2. Compulsory withdrawal

(a) If a member fails to fulfill any of its obligations under this Agreement, the Fund may declare the member ineligible to use the resources of the Fund. Nothing in this Section shall be deemed to limit the provisions of Article IV, Section 6, Article V, Section 5, or Article VI, Section 1.

(b) If, after the expiration of a reasonable period the member persists in its failure to fulfill any of its obligations under this Agreement, or a difference between a member and the Fund under Article IV, Section 6, continues, that member may be required to withdraw from membership in the Fund by a decision of the Board of Governors carried by a majority of the governors representing a majority of the total voting power.

(c) Regulations shall be adopted to ensure that before action is taken against any member under (a) or (b) above, the member shall be informed in reasonable time of the complaint against it and given an adequate opportunity for stating its case, both orally and in writing.

Section 3. Settlement of accounts with members withdrawing

When a member withdraws from the Fund, normal transactions of the Fund in its currency shall cease and settlement of all accounts between it and the Fund shall be made with reasonable despatch by agreement between it and the Fund. If agreement is not reached promptly, the provisions of Schedule D shall apply to the settlement of accounts.

ARTICLE XVI. EMERGENCY PROVISIONS

Section 1. Temporary suspension

(a) In the event of an emergency or the development of unforeseen circumstances threatening the operations of the Fund, the Executive Directors by unanimous vote may suspend for a period of not more than one hundred twenty days the operation of any of the following provisions:

(i) Article IV, Sections 3 and 4 (b)
(ii) Article V, Sections 2, 3, 7, 8 (a) and (f)
(iii) Article VI, Section 2
(iv) Article XI, Section 1

(b) Simultaneously with any decision to suspend the operation of any of the foregoing provisions, the Executive Directors shall call a meeting of the Board of Governors for the earliest practicable date.

(c) The Executive Directors may not extend any suspension beyond one hundred twenty days. Such suspension may be extended, however, for an additional period of not more than two hundred forty days, if the Board of Governors by a four-fifths majority of the total voting power so decides, but it may not be further extended except by amendment of this Agreement pursuant to Article XVII.

(d) The Executive Directors may, by a majority of the total voting power, terminate such suspension at any time.

Section 2. Liquidation of the Fund

(a) The Fund may not be liquidated except by decision of the Board of Governors. In an emergency, if the Executive Directors decide that liquidation of the Fund may be necessary, they may temporarily suspend all transactions, pending decision by the Board.

(b) If the Board of Governors decides to liquidate the Fund, the Fund shall forthwith cease to engage in any activities except those incidental to the orderly collection and liquidation of its assets and the settlement of its liabilities, and all obligations of members under this Agreement shall cease except those set out in this Article, in Article XVIII, paragraph (c), in Schedule D, paragraph 7, and in Schedule E.

(c) Liquidation shall be administered in accordance with the provisions of Schedule E.

ARTICLE XVII. AMENDMENTS

(a) Any proposal to introduce modifications in this Agreement, whether emanating from a member, a governor or the Executive Directors, shall be communicated to the chairman of the Board of Governors who shall bring the proposal before the Board. If the proposed amendment is approved by the Board the Fund shall, by circular letter or telegram, ask all members whether they accept the proposed amendment. When three-fifths of the members, having four-fifths of the total voting power, have accepted the proposed amendment, the Fund shall certify the fact by a formal communication addressed to all members.

(b) Notwithstanding (a) above, acceptance by all members is required in the case of any amendment modifying

(i) the right to withdraw from the Fund (Article XV, Section 1);

(ii) the provision that no change in a member's quota shall be made without its consent (Article III, Section 2);

(iii) the provision that no change may be made in the par value of a member's currency except on the proposal of that member (Article IV, Section 5 (b)).

(c) Amendments shall enter into force for all members three months after the date of the formal communication unless a shorter period is specified in the circular letter or telegram.

ARTICLE XVIII. INTERPRETATION

(a) Any question of interpretation of the provisions of this Agreement arising between any member and the Fund or between any members of the Fund shall be submitted to the Executive Directors for their decision. If the question particularly affects any member not entitled to appoint an executive director it shall be entitled to representation in accordance with Article XII, Section 3 (j).

(b) In any case where the Executive Directors have given a decision under (a) above, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the result of the reference to the Board the Fund may, so far as it deems necessary, act on the basis of the decision of the Executive Directors.

(c) Whenever a disagreement arises between the Fund and a member which has withdrawn, or between the Fund and any member during liquidation of the Fund, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Fund, another by the member or withdrawing member and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the Permanent Court of International Justice or such other authority as may have been prescribed by regulation adopted by the Fund. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE XIX. EXPLANATION OF TERMS

In interpreting the provisions of this Agreement the Fund and its members shall be guided by the following:

(a) A member's monetary reserves means its net official holdings of gold, of convertible currencies of other members, and of the currencies of such non-members as the Fund may specify.

(b) The official holdings of a member means central holdings (that is, the holdings of its Treasury, central bank, stabilization fund, or similar fiscal agency).

(c) The holdings of other official institutions or other banks within its territories may, in any particular case, be deemed by the Fund, after consultation with the member, to be official holdings to the extent that they are substantially in excess of working balances; provided that for the purpose of determining whether, in a particular case, holdings are in excess of working balances, there shall be deducted from such holdings amounts of currency due to official institutions and banks in the territories of members or non-members specified under (d) below.

(d) A member's holdings of convertible currencies means its holdings of the currencies of other members which are not availing themselves of the transitional arrangements under Article XIV, Section 2, together with its holdings of the currencies of such non-members as the Fund may from time to time specify. The term currency for this purpose includes without limitation coins, paper money, bank balances, bank acceptances, and government obligations issued with a maturity not exceeding twelve months.

(e) A member's monetary reserves shall be calculated by deducting from its central holdings the currency liabilities to the Treasuries, central banks, stabilization funds, or similar fiscal agencies of other members or non-members specified under (d) above, together with similar liabilities to other official institutions and other banks in the territories of members, or non-members specified under (d) above. To these net holdings shall be added the sums deemed to be official holdings of other official institutions and other banks under (c) above.

(f) The Fund's holdings of the currency of a member shall include any securities accepted by the Fund under Article III, Section 5.

(g) The Fund, after consultation with a member which is availing itself of the transitional arrangements under Article XIV, Section 2, may deem holdings of the currency of that number which carry specified rights of conversion into another currency or into gold to be holdings of convertible currency for the purpose of the calculation of monetary reserves.

(h) For the purpose of calculating gold subscriptions under Article III, Section 3, a member's net official holdings of gold and United States dollars shall consist of its official holdings of gold and United States currency after deducting central holdings of its currency by other countries and holdings of its currency by other official institutions and other banks if these holdings carry specified rights of conversion into gold or United States currency.

(i) Payments for current transactions means payments which are not for the purpose of transferring capital, and includes, without limitation:

(1) All payments due in connection with foreign trade, other current business, including services, and normal short-term banking and credit facilities;

(2) Payments due as interest on loans and as net income from other investments;

(3) Payments of moderate amount for amortization of loans or for depreciation of direct investments;

(4) Moderate remittances for family living expenses.

The Fund may, after consultation with the members concerned, determine whether certain specific transactions are to be considered current transactions or capital transactions.

ARTICLE XX. FINAL PROVISIONS

Section 1. Entry into force

This Agreement shall enter into force when it has been signed on behalf of governments having sixty-five percent of the total of the quotas set forth in Schedule A and when the instruments referred to in Section 2 (a) of this Article have been deposited on their behalf but in no event shall this Agreement enter into force before May 1, 1945.

Section 2. Signature

(a) Each government on whose behalf this Agreement is signed shall deposit with the Government of the United States of America an instrument setting forth that it has accepted this Agreement in accordance with its law and has

taken all steps necessary to enable it to carry out all of its obligations under this Agreement.[1]

(b) Each government shall become a member of the Fund as from the date of the deposit on its behalf of the instrument referred to in (a) above, except that no government shall become a member before this Agreement enters into force under Section 1 of this Article.

(c) The Government of the United States of America shall inform the governments of all countries whose names are set forth in Schedule A, and all governments whose membership is approved in accordance with Article II, Section 2, of all signatures of this Agreement and of the deposit of all instruments referred to in (a) above.

(d) At the time this Agreement is signed on its behalf, each government shall transmit to the Government of the United States of America one one-hundredth of one percent of its total subscription in gold or United States dollars for the purpose of meeting administrative expenses of the Fund. The Government of the United States of America shall hold such funds in a special deposit account and shall transmit them to the Board of Governors of the Fund when the initial meeting has been called under Section 3 of this Article. If this Agreement has not come into force by December 31, 1945, the Government of the United States of America shall return such funds to the governments that transmitted them.

(e) This Agreement shall remain open for signature at Washington on behalf of the governments of the countries whose names are set forth in Schedule A until December 31, 1945.

(f) After December 31, 1945, this Agreement shall be open for signature on behalf of the government of any country whose membership has been approved in accordance with Article II, Section 2.

(g) By their signature of this Agreement, all governments accept it both on their own behalf and in respect of all their colonies, overseas territories, all territories under their protection, suzerainty, or authority and all territories in respect of which they exercise a mandate.

(h) In the case of governments whose metropolitan territories have been under enemy occupation, the deposit of the instrument referred to in (a) above may be delayed until one hundred eighty days after the date on which these territories have been liberated. If, however, it is not deposited by any such government before the expiration of this period the signature affixed on behalf of that government shall become void and the portion of its subscription paid under (d) above shall be returned to it.

(i) Paragraphs (d) and (h) shall come into force with regard to each signatory government as from the date of its signature.

Section 3. Inauguration of the Fund

(a) As soon as this Agreement enters into force under Section 1 of this Article, each member shall appoint a governor and the member having the largest quota shall call the first meeting of the Board of Governors.

(b) At the first meeting of the Board of Governors, arrangements shall be made for the selection of provisional executive directors. The governments of the five countries for which the largest quotas are set forth in Schedule A shall appoint provisional executive directors. If one or more of such governments have not become members, the executive directorships they would be entitled to fill shall remain vacant until they become members, or until January 1, 1946, whichever is the earlier. Seven provisional executive directors shall be elected in accordance with the provisions of Schedule C and shall remain in office until the date of the first regular election of executive directors which shall be held as soon as practicable after January 1, 1946.

(c) The Board of Governors may delegate to the provisional executive directors any powers except those which may not be delegated to the Executive Directors.

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[1] [Instruments of acceptance have been deposited with the Department of State by the following countries: Belgium on Dec. 27, 1945; Bolivia on Dec. 27, 1945; Brazil on Jan. 14, 1946; Canada on Dec. 27, 1945; Chile on Dec. 31, 1945; China on Dec. 26, 1945; Colombia on Dec. 27, 1945; Costa Rica on Jan. 8, 1946; Czechoslovakia on Dec. 26, 1945; Dominican Republic on Dec. 28, 1945; Ecuador on Dec. 28, 1945; Egypt on Dec. 26, 1945; Ethiopia on Dec. 12, 1945; France on Dec. 27, 1945; Greece on Dec. 26, 1945; Guatemala on Dec. 28, 1945; Honduras on Dec. 26, 1945; Iceland on Dec. 27, 1945; India on Dec. 27, 1945; Iran on Dec. 28, 1945; Iraq on Dec. 26, 1945; Luxembourg on Dec. 26, 1945; Mexico on Dec. 31, 1945; Netherlands on Dec. 26, 1945; Norway on Dec. 27, 1945; Paraguay on Dec. 26, 1945; Peru on Dec. 31, 1945; Philippine Commonwealth on Dec. 21, 1945; Poland on Jan. 10, 1946; Union of South Africa on Dec. 26, 1945; United Kingdom of Great Britain and Northern Ireland on Dec. 27, 1945; United States of America on Dec. 20, 1945; Yugoslavia on Dec. 26, 1945.]

Section 4. Initial determination of par values

(a) When the Fund is of the opinion that it will shortly be in a position to begin exchange transactions, it shall so notify the members and shall request each member to communicate within thirty days the par value of its currency based on the rates of exchange prevailing on the sixtieth day before the entry into force of this Agreement. No member whose metropolitan territory has been occupied by the enemy shall be required to make such a communication while that territory is a theater of major hostilities or for such period thereafter as the Fund may determine. When such a member communicates the par value of its currency the provisions of (d) below shall apply.

(b) The par value communicated by a member whose metropolitan territory has not been occupied by the enemy shall be the par value of that member's currency for the purposes of this Agreement unless, within ninety days after the request referred to in (a) above has been received, (i) the member notifies the Fund that it regards the par value as unsatisfactory, or (ii) the Fund notifies the member that in its opinion the par value cannot be maintained without causing recourse to the Fund on the part of that member or others on a scale prejudicial to the Fund and to members. When notification is given under (i) or (ii) above, the Fund and the member shall, within a period determined by the Fund in the light of all relevant circumstances, agree upon a suitable par value for that currency. If the Fund and the member do not agree within the period so determined, the member shall be deemed to have withdrawn from the Fund on the date when the period expires.

(c) When the par value of a member's currency has been established under (b) above, either by the expiration of ninety days without notification, or by agreement after notification, the member shall be eligible to buy from the Fund the currencies of other members to the full extent permitted in this Agreement, provided that the Fund has begun exchange transactions.

(d) In the case of a member whose metropolitan territory has been occupied by the enemy, the provisions of (b) above shall apply, subject to the following modifications:

(i) The period of ninety days shall be extended so as to end on a date to be fixed by agreement between the Fund and the member.

(ii) Within the extended period the member may, if the Fund has begun exchange transactions, buy from the Fund with its currency the currencies of other members, but only under such conditions and in such amounts as may be prescribed by the Fund.

(iii) At any time before the date fixed under (i) above, changes may be made by agreement with the Fund in the par value communicated under (a) above.

(e) If a member whose metropolitan territory has been occupied by the enemy adopts a new monetary unit before the date to be fixed under (d) (i) above, the par value fixed by that member for the new unit shall be communicated to the Fund and the provisions of (d) above shall apply.

(f) Changes in par values agreed with the Fund under this Section shall not be taken into account in determining whether a proposed change falls within (i), (ii), or (iii) of Article IV, Section 5 (c).

(g) A member communicating to the Fund a par value for the currency of its metropolitan territory shall simultaneously communicate a value, in terms of that currency, for each separate currency, where such exists, in the territories in respect of which it has accepted this Agreement under Section 2 (g) of this Article, but no member shall be required to make a communication for the separate currency of a territory which has been occupied by the enemy while that territory is a theater of major hostilities or for such period thereafter as the Fund may determine. On the basis of the par value so communicated, the Fund shall compute the par value of each separate currency. A communication or notification to the Fund under (a), (b) or (d) above regarding the par value of a currency, shall also be deemed, unless the contrary is stated, to be a communication or notification regarding the par value of all the separate currencies referred to above. Any member may, however, make a communication or notification relating to the metropolitan or any of the separate currencies alone. Unless a member does so, the provisions of the preceding paragraphs (including (d) above, if a territory where a separate currency exists has been occupied by the enemy) shall apply to each of these currencies separately.

(h) The Fund shall begin exchange transactions at such date as it may determine after members having sixty-five percent of the total of the quotas set forth in Schedule A have become eligible, in accordance with the preceding paragraphs of this Section, to purchase the currencies of other members, but in no event until after major hostilities in Europe have ceased.

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(i) The Fund may postpone exchange transactions with any member if its circumstances are such that, in the opinion of the Fund, they would lead to use of the resources of the Fund in a manner contrary to the purposes of this Agreement or prejudicial to the Fund or the members.

(j) The par values of the currencies of governments which indicate their desire to become members after December 31, 1945, shall be determined in accordance with the provisions of Article II, Section 2.

DONE at Washington, in a single copy which shall remain deposited in the archives of the Government of the United States of America, which shall transmit certified copies to all governments whose names are set forth in Schedule A and to all governments whose membership is approved in accordance with Article II, Section 2.

For Australia:

For Belgium:
L. A. GOFFIN. *december 27, 1945*

For Bolivia:
V ANDRADE
December 27, 1945

For Brazil:
FERNANDO LOBO
27 dec 1945

For Canada:
LESTER B PEARSON
Dec 27/45.

For Chile:
MARCIAL MORA M
Dec. 31 1945.–

For China:
WEI TAO-MING
December 27, 1945

For Colombia:
C. S. DE SANTAMARIA
december 27th 1945.

For Costa Rica:
F GUTIERREZ
December 27, 1945

For Cuba:
GMO BELT
December 31, 1945

For Czechoslovakia:
V. S. HURBAN
Dec. 27—1945

For the Dominican Republic:
EMILIO G GODOY
December 28—45.

For Ecuador:
GALO PLAZA.
December 27. 45

For Egypt:
ANIS AZER
December 27, 1945

For El Salvador:

For Ethiopia:
G. TESEMMA.
Dec. 27, 1945

For France:
H BONNET
27 Decembre 1945

For Greece:
C. P. DIAMANTOPOULOS
December 27, 1945

For Guatemala:
JOSEH GARCIA GRANADOS
27 de diciembre de 1945

For Haiti:

For Honduras:
JULIÁN R CÁCERES
December 27, 1945.

For Iceland:
THOR THORS
December 27, 1945

For India:
G. S. BAJPAI.
27. 12. '45

For Iran:
HUSSEIN ALA
December 28th 1945

For Iraq:
ALI JAWDAT *Dec 27—1945*

For Liberia:

For Luxembourg:
HUGUES LE GALLAIS
December 27th 1945

For Mexico:
A ESPINOSA DE LOS MONTEROS. *Dec 31st, 1945*

For the Netherlands:
A. LOUDON *Dec. 27th 1945*

For New Zealand:

For Nicaragua:

For Norway:
W. MUNTHE MORGENSTIERNE
December 27th 1945

For Panama:

For Paraguay:
CELSO R. VELÁZQUEZ
December 27, 1945

For Peru:
H FERNÁNDEZ DÁVILA
Dec 31, 1945–

For the Philippine Commonwealth:
CARLOS P. ROMULO
December 27, 1945

For Poland:
OSKAR LANGE
December 27, 1945.

For the Union of South Africa:
H T ANDREWS
December 27 1945–

For the Union of Soviet Socialist Republics:

For the United Kingdom of Great Britain and Northern Ireland:
HALIFAX. *Dec. 27. 1945.*

For the United States of America:
FRED M. VINSON
Dec 27, 1945

For Uruguay:
CÉSAR MONTERO B
Dec 27 1945

For Venezuela:

For Yugoslavia:
STANOJE SIMIC *27 XII. 1945*

SCHEDULE A.—*Quotas*

	In millions of United States dollars		*In millions of United States dollars*
Australia	200	India	400
Belgium	225	Iran	25
Bolivia	10	Iraq	8
Brazil	150	Liberia	.5
Canada	300	Luxembourg	10
Chile	50	Mexico	90
China	550	Netherlands	275
Colombia	50	New Zealand	50
Costa Rica	5	Nicaragua	2
Cuba	50	Norway	50
Czechoslovakia	125	Panama	.5
Denmark [1]	(1)	Paraguay	2
Dominican Republic	5	Peru	25
Ecuador	5	Philippine Commonwealth	15
Egypt	45	Poland	125
El Salvador	2.5	Union of South Africa	100
Ethiopia	6	Union of Soviet Socialist Republics	1200
France	450	United Kingdom	1300
Greece	40	United States	2750
Guatemala	5	Uruguay	15
Haiti	5	Venezuela	15
Honduras	2.5	Yugoslavia	60
Iceland	1		

[1] The quota of Denmark shall be determined by the Fund after the Danish Government has declared its readiness to sign this Agreement but before signature takes place.

SCHEDULE B.—*Provisions With Respect to Repurchase by a Member of Its Currency Held by the Fund*

1. In determining the extent to which repurchase of a member's currency from the Fund under Article V, Section 7 (b) shall be made with each type of monetary reserve, that is, with gold and with each convertible currency, the following rule, subject to 2 below, shall apply:

(a) If the member's monetary reserves have not increased during the year, the amount payable to the Fund shall be distributed among all types of reserves in proportion to the member's holdings thereof at the end of the year.

(b) If the member's monetary reserves have increased during the year, a part of the amount payable to the Fund equal to one-half of the increase shall be distributed among those types of reserves which have increased in proportion to the amount by which each of them has increased. The remainder of the sum payable to the Fund shall be distributed among all types of reserves in proportion to the member's remaining holdings thereof.

(c) If after all the repurchases required under Article V, Section 7 (b), had been made, the result would exceed any of the limits specified in Article V, Section 7 (c), the Fund shall require such repurchases to be made by the members proportionately in such manner that the limits will not be exceeded.

2. The Fund shall not acquire the currency of any non-member under Article V, Section 7 (b) and (c).

3. In calculating monetary reserves and the increase in monetary reserves during any year for the purpose of Article V, Section 7 (b) and (c), no account shall be taken, unless deductions have otherwise been made by the member for such holdings, of any increase in those monetary reserves which is due to currency previously inconvertible having become convertible during the year; or to holdings which are the proceeds of a long-term or medium-term loan contracted during the year; or to holdings which have been transferred or set aside for repayment of a loan during the subsequent year.

4. In the case of members whose metropolitan territories have been occupied by the enemy, gold newly produced during the five years after the entry into force of this Agreement from mines located within their metropolitan territories shall not be included in computations of their monetary reserves or of increases in their monetary reserves.

SCHEDULE C.—*Election of Executive Directors*

1. The election of the elective executive directors shall be by ballot of the governors eligible to vote under Article XII, Section 3 (b) (iii) and (iv).

2. In balloting for the five directors to be elected under Article XII, Section 3 (b) (iii), each of the governors eligible to vote shall cast for one person all of the votes to which he is entitled under Article XII, Section 5 (a). The five persons receiving the greatest number of votes shall be directors, provided that no person who received less than nineteen percent of the total number of votes that can be cast (eligible votes) shall be considered elected

3. When five persons are not elected in the first ballot, a second ballot shall be held in which the person who received the lowest number of votes shall be ineligible for election and in which there shall vote only (a) those governors who voted in the first ballot for a person not elected, and (b) those governors whose votes for a person elected are deemed under 4 below to have raised the votes cast for that person above twenty percent of the eligible votes.

4. In determining whether the votes cast by a governor are to be deemed to have raised the total of any person above twenty percent of the eligible votes the twenty percent shall be deemed to include, first, the votes of the governor casting the largest number of votes for such person, then the votes of the governor casting the next largest number, and so on until twenty percent is reached.

5. Any governor part of whose votes must be counted in order to raise the total of any person above nineteen percent shall be considered as casting all of his votes for such person even if the total votes for such person thereby exceed twenty percent.

6. If, after the second ballot, five persons have not been elected, further ballots shall be held on the same principles until five persons have been elected, provided that after four persons are elected, the fifth may be elected by a simple majority of the remaining votes and shall be deemed to have been elected by all such votes.

7. The directors to be elected by the American Republics under Article XII, Section 3 (b) (iv) shall be elected as follows:

(a) Each of the directors shall be elected separately.

(b) In the election of the first director, each governor representing an American Republic eligible to participate in the election shall cast for one person all the votes to which he is entitled. The person receiving the largest number of votes shall be elected provided that he has received not less than forty-five percent of the total votes.

(c) If no person is elected on the first ballot, further ballots shall be held, in each of which the persons receiving the lowest number of votes shall be eliminated, until one person received a number of votes sufficient for election under (b) above.

(d) Governors whose votes contributed to the election of the first director shall take no part in the election of the second director.

(e) Persons who did not succeed in the first election shall not be ineligible for election as the second director.

(f) A majority of the votes which can be cast shall be required for election of the second director. If at the first ballot no person receives a majority, further ballots shall be held in each of which the person receiving the lowest number of votes shall be eliminated, until some person obtains a majority.

(g) The second director shall be deemed to have been elected by all the votes which could have been cast in the ballot securing his election.

SCHEDULE D.—*Settlement of Accounts With Members Withdrawing*

1. The Fund shall be obligated to pay a member withdrawing an amount equal to its quota, plus any other amounts due to it from the Fund, less any amounts due to the Fund, including charges accruing after the date of its withdrawal;

but no payment shall be made until six months after the date of withdrawal. Payments shall be made in the currency of the withdrawing member.

2. If the Fund's holdings of the currency of the withdrawing member are not sufficient to pay the net amount due from the Fund, the balance shall be paid in gold, or in such other manner as may be agreed. If the Fund and the withdrawing member do not reach agreement within six months of the date of withdrawal, the currency in question held by the Fund shall be paid forthwith to the withdrawing member. Any balance due shall be paid in ten half-yearly installments during the ensuing five years. Each such installment shall be paid, at the option of the Fund, either in the currency of the withdrawing member acquired after its withdrawal or by the delivery of gold.

3. If the Fund fails to meet any installment which is due in accordance with the preceeding paragraphs, the withdrawing member shall be entitled to require the Fund to pay the installment in any currency held by the Fund with the exception of any currency which has been declared scarce under Article VII, Section 3.

4. If the Fund's holdings of the currency of a withdrawing member exceed the amount due to it, and if agreement on the method of settling accounts is not reached within six months of the date of withdrawal, the former member shall be obligated to redeem such excess currency in gold or, at its option, in the currencies of members which at the time of redemption are convertible. Redemption shall be made at the parity existing at the time of withdrawal from the Fund. The withdrawing member shall complete redemption within five years of the date of withdrawal, or within such longer period as may be fixed by the Fund, but shall not be required to redeem in any half-yearly period more than one-tenth of the Fund's excess holdings of its currency at the date of withdrawal plus further acquisitions of the currency during such half-yearly period. If the withdrawing member does not fulfill this obligation, the Fund may in an orderly manner liquidate in any market the amount of currency which should have been redeemed.

5. Any member desiring to obtain the currency of a member which has withdrawn shall acquire it by purchase from the Fund, to the extent that such member has access to the resources of the Fund and that such currency is available under 4 above.

6. The withdrawing member guarantees the unrestricted use at all times of the currency disposed of under 4 and 5 above for the purchase of goods or for payment of sums due to it or to persons within its territories. It shall compensate the Fund for any loss resulting from the difference between the par value of its currency on the date of withdrawal and the value realized by the Fund on disposal under 4 and 5 above.

7. In the event of the Fund going into liquidation under Article XVI, Section 2, within six months of the date on which the member withdraws, the account between the Fund and that government shall be settled in accordance with Article XVI, Section 2, and Schedule E.

SCHEDULE E.—*Administration of Liquidation*

1. In the event of liquidation the liabilities of the Fund other than the repayment of subscriptions shall have priority in the distribution of the assets of the Fund. In meeting each such liability the Fund shall use its assets in the following order:

(a) the currency in which the liability is payable;

(b) gold;

(c) all other currencies in proportion, so far as may be practicable, to the quotas of the members.

2. After the discharge of the Fund's liabilities in accordance with 1 above, the balance of the Fund's assets shall be distributed and apportioned as follows:

(a) The Fund shall distribute its holdings of gold among the members whose currencies are held by the Fund in amounts less than their quotas. These members shall share the gold so distributed in the proportions of the amounts by which their quotas exceed the Fund's holdings of their currencies.

(b) The Fund shall distribute to each member one-half the Fund's holdings of its currency but such distribution shall not exceed fifty percent of its quota.

(c) The Fund shall apportion the remainder of its holdings of each currency among all the members in proportion to the amounts due to each member after the distributions under (a) and (b) above.

3. Each member shall redeem the holdings of its currency apportioned to other members under 2 (c) above, and shall agree with the Fund within three months after a decision to liquidate upon an orderly procedure for such redemption.

4. If a member has not reached agreement with the Fund within the three-month period referred to in 3 above, the Fund shall use the currencies of other members apportioned to that member under 2 (c) above to redeem the currency of that member apportioned to other members. Each currency apportioned to a member which has not reached agreement shall be used, so far as possible, to redeem its currency apportioned to the members which have made agreements with the Fund under 3 above.

5. If a member has reached agreement with the Fund in accordance with 3 above, the Fund shall use the currencies of other members apportioned to that member under 2 (c) above to redeem the currency of that member apportioned to other members which have made agreements with the Fund under 3 above. Each amount so redeemed shall be redeemed in the currency of the member to which it was apportioned.

6. After carrying out the preceding paragraphs, the Fund shall pay to each member the remaining currencies held for its account.

7. Each member whose currency has been distributed to other members under 6 above shall redeem such currency in gold or, at its option, in the currency of the member requesting redemption, or in such other manner as may be agreed between them. If the members involved do not otherwise agree, the member obligated to redeem shall complete redemption within five years of the date of distribution, but shall not be required to redeem in any half-yearly period more than one-tenth of the amount distributed to each other member. If the member does not fulfill this obligation, the amount of currency which should have been redeemed may be liquidated in an orderly manner in any market.

8. Each member whose currency has been distributed to other members under 6 above guarantees the unrestricted use of such currency at all times for the purchase of goods or for payment of sums due to it or to persons in its territories. Each member so obligated agrees to compensate other members for any loss resulting from the difference between the par value of its currency on the date of the decision to liquidate the Fund and the value realized by such members on disposal of its currency.

List of Articles and Sections

Introductory Article
I. Purposes
II. Membership
  1. Original members
  2. Other members
III. Quotas and Subscriptions
  1. Quotas
  2. Adjustment of quotas
  3. Subscriptions: time, place and form of payment
  4. Payments when quotas are changed
  5. Substitution of securities for currency
IV. Par Values of Currencies
  1. Expression of par values
  2. Gold purchases based on par values
  3. Foreign exchange dealings based on parity
  4. Obligations regarding exchange stability
  5. Changes in par values
  6. Effect of unauthorized changes
  7. Uniform changes in par values
  8. Maintenance of gold value of the Fund's assets
  9. Separate currencies within a member's territories
V. Transactions with the Fund
  1. Agencies dealing with the Fund
  2. Limitation on the Fund's operations
  3. Conditions governing use of the Fund's resources
  4. Waiver of conditions
  5. Ineligibility to use the Fund's resources
  6. Purchases of currencies from the Fund for gold
  7. Repurchase by a member of its currency held by the Fund
  8. Charges
VI. Capital Transfers
  1. Use of the Fund's resources for capital transfers
  2. Special provisions for capital transfers
  3. Controls of capital transfers
VII. Scarce Currencies
  1. General scarcity of currency
  2. Measures to replenish the Fund's holdings of scarce currencies
  3. Scarcity of the Fund's holdings
  4. Administration of restrictions
  5. Effect of other international agreements on restrictions
VIII. General Obligations of Members
  1. Introduction
  2. Avoidance of restrictions on current payments
  3. Avoidance of discriminatory currency practices
  4. Convertibility of foreign-held balances
  5. Furnishing of information
  6. Consultation between members regarding existing international agreements
IX. Status, Immunities and Privileges
  1. Purposes of Article
  2. Status of the Fund
  3. Immunity from judicial process
  4. Immunity from other action
  5. Immunity of archives
  6. Freedom of assets from restrictions
  7. Privilege for communications
  8. Immunities and privileges of officers and employees
  9. Immunities from taxation
  10. Application of Article
X. Relations with Other International Organizations

List of Articles and Sections—Continued

XI. Relations with Non-member Countries
1. Undertakings regarding relations with non-member countries
2. Restrictions on transactions with non-member countries
XII. Organisation and Management
1. Structure of the Fund
2. Board of Governors
3. Executive Directors
4. Managing Director and staff
5. Voting
6. Distribution of net income
7. Publication of reports
8. Communication of views to members
XIII. Offices and Depositories
1. Location of offices
2. Depositories
3. Guarantee of the Fund's assets
XIV. Transitional Period
1. Introduction
2. Exchange restrictions
3. Notification to the Fund
4. Action of the Fund relating to restrictions
5. Nature of transitional period
XV. Withdrawal from Membership
1. Right of members to withdraw
2. Compulsory withdrawal
3. Settlement of accounts with members withdrawing
XVI. Emergency Provisions
1. Temporary suspension
2. Liquidation of the Fund
XVII. Amendments
XVIII. Interpretation
XIX. Explanation of Terms
XX. Final Provisions
1. Entry into force
2. Signature
3. Inauguration of the Fund
4. Initial determination of par values

SCHEDULES

Schedule A. Quotas
Schedule B. Provisions with Respect to Repurchase by a Member of its Currency Held by the Fund
Schedule C. Election of Executive Directors
Schedule D. Settlement of Accounts with Members Withdrawing
Schedule E. Administration of Liquidation

EXHIBIT IX–A

[Pamphlet]

ANGLO-AMERICAN FINANCIAL AND COMMERCIAL AGREEMENTS

(DECEMBER 1945)

UNDERSTANDING REACHED ON COMMERCIAL POLICY

JOINT STATEMENT BY THE UNITED STATES AND THE UNITED KINGDOM

The Secretary of State of the United States has made public today a document setting forth certain "Proposals for Consideration by an International Conference on Trade and Employment". These proposals have the endorsement of the Executive branch of the Government of the United States and have been submitted to other Governments as a basis for discussion preliminary to the holding of such a conference.

Equally, the Government of the United Kingdom is in full agreement on all important points in these proposals and accepts them as a basis for international discussion; and it will, in common with the United States Government, use its best endeavors to bring such discussions to a successful conclusion, in the light of the views expressed by other countries.

The two Governments have also agreed upon the procedures for the international negotiation and implementation of these proposals. To this end they have undertaken to begin preliminary negotiations at an early date between themselves and with other countries for the purpose of developing concrete arrangements to carry out these proposals, including definitive measures for the relaxation of trade barriers of all kinds.

These negotiations will relate to tariffs and preferences, quantitative restrictions, subsidies, state trading, cartels, and other types of trade barriers treated in the document published by the United States and referred to above. The negotiations will proceed in accordance with the principles laid down in that document.

SETTLEMENT FOR LEND-LEASE AND RECIPROCAL AID, SURPLUS WAR PROPERTY, AND CLAIMS

JOINT STATEMENT BY THE UNITED STATES AND THE UNITED KINGDOM

1. The Governments of the United States and the United Kingdom have reached an understanding for the settlement of lend-lease and reciprocal aid, for the acquisition of United States Army and Navy surplus property, and the United

States interest in installations, located in the United Kingdom, and for the final settlement of the financial claims of each Government against the other arising out of the conduct of the war. Specific agreements necessary to implement these understandings, settting forth the terms in detail, and consistent herewith, are in the course of preparation and will shortly be completed.

2. This settlement for lend-lease and reciprocal aid will be complete and final. In arriving at this settlement both Governments have taken full cognizance of the benefits already received by them in the defeat of their common enemies. They have also taken full cognizance of the general obligations assumed by them in article VII of the mutual-aid agreement of February 23, 1942, and the understandings agreed upon this day with regard to commercial policy. Pursuant to this settlement, both Governments will continue to discuss arrangements for agreed action for the attainment of the economic objectives referred to in article VII of the mutual-aid agreement. The Governments expect in these discussions to reach specific conclusions at an early date with respect to urgent problems such as those in the field of telecommunications and civil aviation. In the light of all the foregoing, both Governments agree that no further benefits will be sought as consideration for lend-lease and reciprocal aid.

3. The net sum due from the United Kingdom to the United States for the settlement of lend-lease and reciprocal aid, for the acquisition of surplus property, and the United States interest in installations, located in the United Kingdom, and for the settlement of claims shall be $650,000,000 subject to the accounting adjustment referred to below. This amount consists of (*a*) a net sum of $118,000,000 representing the difference between the amount of the services and supplies furnished or to be furnished by each Government to the other Government after V–J Day through lend-lease and reciprocal-aid channels, less the sum due to the United Kingdom under the claims settlement, and (*b*) a net sum of $532,000,000 for all other lend-lease and reciprocal-aid items, and for surplus property, and the United States interest in installations, located in the United Kingdom and owned by the United States Government. The actual amounts due to the respective Governments for items included in (*a*) above other than claims will, however, be ascertained by accounting in due course, and the total sum of $650,000,000 will be adjusted for any difference between the sum of $118,000,000 mentioned above and the actual sum found to be due. All new transactions between the two Governments after December 31, 1945, will be settled by cash payment.

4. The total liability found to be due to the Government of the United States will be discharged on the same terms as those specified in the Financial Agreement concluded this day for the discharge of the credit provided therein.

5. In addition to the financial payments referred to above, the two Governments have agreed upon the following:

(*a*) Appropriate non-discriminatory treatment will be extended to United States nationals in the use and disposition of installations in which there is a United States interest;

(*b*) Appropriate settlements for the lend-lease interest in installations other than in the United Kingdom and the colonial dependencies will be made on disposal of the installations;

(*c*) The United States reserves its right of recapture of any lend-lease articles held by United Kingdom armed forces, but the United States has indicated that it does not intend to exercise generally this right of recapture;

(*d*) Disposals for military use to forces other than the United Kingdom armed forces of lend-lease articles held by the United Kingdom armed forces at V–J Day, and disposals for civilian use other than in the United Kingdom and the colonial dependencies of such lend-lease articles, will be made only with the consent of the United States Government, and any net proceeds will be paid to the United States Government. The United Kingdom Government agrees that except to a very limited extent it will not release for civilian use in, or export from, the United Kingdom and the colonial dependencies lend-lease articles held by the United Kingdom armed forces.

(*e*) The Government of the United Kingdom will use its best endeavors to prevent the export to the United States of any surplus property transferred in accordance with this understanding.

6. The Government of the United Kingdom agrees that, when requested by the Government of the United States from time to time prior to December 31, 1951, it will transfer, in cash, pounds sterling to an aggregate dollar value not in excess of $50,000,000, at the exchange rates prevailing at the times of transfer, to be

credited against the dollar payment due to the Government of the United States as principal under this settlement. The Government of the United States will use these pounds sterling exclusively to acquire land or to acquire or construct buildings in the United Kingdom and the colonial dependencies for the use of the Government of the United States, and for carrying out educational programs in accordance with agreements to be concluded between the two Governments.

7. The arrangements set out in this statement are without prejudice to any settlements concerning lend-lease and reciprocal aid which may be negotiated between the Government of the United States and the Governments of Australia, New Zealand, the Union of South Africa, and India.

FINANCIAL AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND THE UNITED KINGDOM

It is hereby agreed between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland as follows:

1. *Effective date of the Agreement.* The effective date of this Agreement shall be the date on which the Government of the United States notifies the Government of the United Kingdom that the Congress of the United States has made available the funds necessary to extend to the Government of the United Kingdom the line of credit in accordance with the provisions of this Agreement.

2. *Line of credit.* The Government of the United States will extend to the Government of the United Kingdom a line of credit of $3,750,000,000 which may be drawn upon at any time between the effective date of this Agreement and December 31, 1951, inclusive.

3. *Purpose of the line of credit.* The purpose of the line of credit is to facilitate purchases by the United Kingdom of goods and services in the United States, to assist the United Kingdom to meet transitional postwar deficits in its current balance of payments, to help the United Kingdom to maintain adequate reserves of gold and dollars, and to assist the Government of the United Kingdom to assume the obligations of multilateral trade, as defined in this and other agreements.

4. *Amortization and interest.*

(I) The amount of the line of credit drawn by December 31, 1951, shall be repaid in 50 annual installments beginning on December 31, 1951, with interest at the rate of 2 percent per annum. Interest for the year 1951 shall be computed on the amount outstanding on December 31, 1951, and for each year thereafter, interest shall be computed on the amount outstanding on January of each such year.

Forty-nine annual installments of principal repayments and interest shall be equal, calculated at the rate of $31,823,000 for each $1,000,000,000 of the line of credit drawn by December 31, 1951, and the fiftieth annual installment shall be at the rate of $31,840,736.65 for each such $1,000,000,000. Each installment shall consist of the full amount of the interest due and the remainder of the installment shall be the principal to be repaid in that year. Payments required by this section are subject to the provisions of section 5.

(II) The Government of the United Kingdom may accelerate repayment of the amount drawn under this line of credit.

5. *Waiver of interest payments.* In any year in which the Government of the United Kingdom requests the Government of the United States to waive the amount of the interest due in the installment of that year, the Government of the United States will grant the waiver if:

(*a*) the Government of the United Kingdom finds that a waiver is necessary in view of the present and prospective conditions of international exchange and the level of its gold and foreign exchange reserves *and*

(*b*) the International Monetary Fund certifies that the income of the United Kingdom from home-produced exports plus its net income from invisible current transactions in its balance of payments was on the average over the five preceding calendar years less than the average annual amount of United Kingdom imports during 1936–8, fixed at £866 million, as such figure may be adjusted for changes in the price level of these imports. Any amount in excess of £43,750,000 released or paid in any year on account of sterling balances accumulated to the credit of overseas governments, monetary authorities and banks before the effective date of this Agreement shall

be regarded as a capital transaction and therefore shall not be included in the above calculation of the net income from invisible current transactions for that year. If waiver is requested for an interest payment prior to that due in 1955, the average income shall be computed for the calendar years for 1950 through the year preceding that in which the request is made.

6. *Relation of this line of credit to other obligations.*

(i) It is understood that any amounts required to discharge obligations of the United Kingdom to third countries outstanding on the effective date of this Agreement will be found from resources other than this line of credit.

(ii) The Government of the United Kingdom will not arrange any long-term loans from governments within the British Commonwealth after December 6, 1945, and before the end of 1951 on terms more favorable to the lender than the terms of this line of credit.

(iii) Waiver of interest will not be requested or allowed under section 5 in any year unless the aggregate of the releases or payments in that year of sterling balances accumulated to the credit of overseas governments, monetary authorities and banks (except in the case of colonial dependencies) before the effective date of this Agreement is reduced proportionately, and unless interest payments due in that year on loans referred to in (ii) above are waived. The proportionate reduction of the releases or payments of sterling balances shall be calculated in relation to the aggregate released and paid in the most recent year in which waiver of interest was not requested.

(iv) The application of the principles set forth in this section shall be the subject of full consultation between the two governments as occasion may arise.

7. *Sterling area exchange arrangements.* The Government of the United Kingdom will complete arrangements as early as practicable and in any case not later than one year after the effective date of this Agreement, unless in exceptional cases a later date is agreed upon after consultation, under which immediately after the completion of such arrangements the sterling receipts from current transactions of all sterling area countries (apart from any receipts arising out of military expenditure by the Government of the United Kingdom prior to December 31, 1948, to the extent to which they are treated by agreement with the countries concerned on the same basis as the balances accumulated during the war) will be freely available for current transactions in any currency area without discrimination; with the result that any discrimination arising from the so-called sterling area dollar pool will be entirely removed and that each member of the sterling area will have its current sterling and dollar receipts at its free disposition for current transactions anywhere.

8. *Other exchange arrangements.*

(i) The Government of the United Kingdom agrees that after the effective date of this Agreement it will not apply exchange controls in such a manner as to restrict (*a*) payments or transfers in respect of products of the United States permitted to be imported into the United Kingdom or other current transactions between the two countries or (*b*) the use of sterling balances to the credit of residents of the United States arising out of current transactions. Nothing in this paragraph (i) shall affect the provisions of Article VII of the Articles of Agreement of the International Monetary Fund when those Articles have come into force.

(ii) The Governments of the United States and the United Kingdom agree that not later than one year after the effective date of this Agreement, unless in exceptional cases a later date is agreed upon after consultation, they will impose no restrictions on payments and transfers for current transactions. The obligations of this paragraph (ii) shall not apply:

(*a*) to balances of third countries and their nationals accumulated before this paragraph (ii) becomes effective; or

(*b*) to restrictions imposed in conformity with the Articles of Agreement of the International Monetary Fund, provided that the Governments of the United Kingdom and the United States will not continue to invoke the provisions of Article XIV, Section 2 of those Articles after this paragraph (ii) becomes effective, unless in exceptional cases after consultation they agree otherwise; or

(*c*) to restrictions imposed in connection with measures designed to uncover and dispose of assets of Germany and Japan.

(iii) This section and section 9, which are in anticipation of more comprehensive arrangements by multilateral agreement, shall operate until December 31, 1951.

9. *Import arrangements.* If either the Government of the United States or the Government of the United Kingdom imposes or maintains quantitative import restrictions, such restrictions shall be administered on a basis which does not discriminate against imports from the other country in respect of any product; provided that this undertaking shall not apply in cases in which (*a*) its application would have the effect of preventing the country imposing such restrictions from utilizing, for the purchase of needed imports, inconvertible currencies accumulated up to December 31, 1946, or (*b*) there may be special necessity for the country imposing such restrictions to assist, by measures not involving a substantial departure from the general rule of non-discrimination, a country whose economy has been disrupted by war, or (*c*) either government imposes quantitative restrictions having equivalent effect to any exchange restrictions which that government is authorized to impose in conformity with Article VII of the Articles of Agreement of the International Monetary Fund. The provisions of this section shall become effective as soon as practicable but not later than December 31, 1946.

10. *Accumulated sterling balances.*

(i) The Government of the United Kingdom intends to make agreements with the countries concerned, varying according to the circumstances of each case, for an early settlement covering the sterling balances accumulated by sterling area and other countries prior to such settlement (together with any future receipts arising out of military expenditure by the Government of the United Kingdom to the extent to which they are treated on the same basis by agreement with the countries concerned). The settlements with the sterling area countries will be on the basis of dividing these accumulated balances into three categories (*a*) balances to be released at once and convertible into any currency for current transactions, (*b*) balances to be similarly released by installments over a period of years beginning in 1951, and (*c*) balances to be adjusted as a contribution to the settlement of war and postwar indebtedness and in recognition of the benefits which the countries concerned might be expected to gain from such a settlement. The Government of the United Kingdom will make every endeavor to secure the early completion of these arrangements.

(ii) In consideration of the fact that an important purpose of the present line of credit is to promote the development of multilateral trade and facilitate its early resumption on a non-discriminatory basis, the Government of the United Kingdom agrees that any sterling balances released or otherwise available for current payments will, not later than one year after the effective date of this Agreement unless in special cases a later date is agreed upon after consultation, be freely available for current transactions in any currency area without discrimination.

11. *Definitions.*

For the purpose of this Agreement:

(i) The term "current transactions" shall have the meaning prescribed in Article XIX (i) of the Articles of Agreement of the International Monetary Fund.

(ii) The term "sterling area" means the United Kingdom and the other territories declared by the Defense (Finance) (Definition of Sterling Area) (No. 2) Order, 1944, to be included in the sterling area, namely "the following territories excluding Canada and Newfoundland, that is to say—

(*a*) any Dominion,

(*b*) any other part of His Majesty's dominions,

(*c*) any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom or in any Dominion,

(*d*) any British protectorate or protected State,

(*e*) Egypt, the Anglo-Egyptian Sudan and Iraq,

(*f*) Iceland and the Faroe Islands."

12. *Consultation on Agreement.* Either government shall be entitled to approach the other for a reconsideration of any of the provisions of this Agreement, if in its opinion the prevailing conditions of internal exchange justify such reconsideration, with a view to agreeing upon modifications for presentation to their respective legislatures.

Signed in duplicate at Washington, District of Columbia, this 6th day of December, 1945.

For the Government of the United States of America:

FRED M. VINSON
Secretary of the Treasury
of the United States of America

For the Government of the United Kingdom
of Great Britain and Northern Ireland:

HALIFAX
His Majesty's Ambassador Extraordinary and
Plenipotentiary at Washington.

EXHIBIT IX–B

JOINT STATEMENT BY THE GOVERNMENTS OF THE UNITED STATES AND BELGIUM RELEASED SIMULTANEOUSLY IN WASHINGTON AND BRUSSELS, OCTOBER 20, 1945

The Government of the United States and the Government of Belgium today announced the conclusion of arrangements with respect to certain urgent financial and supply problems created by the economic support given by Belgium to the United States armed forces and the termination of lend-lease aid to Belgium. Up to VJ-day, Belgium provided at least $90 million more in goods and services are reverse lend-lease than it had received from the United States under lend-lease. This excess of reciprocal aid is largely the result of the very cooperative attitude of Belgium in unstintingly furnishing from its own limited resources whatever was requested by our armed forces after liberation. The goods and services which the Belgians provided went directly to United States troops. This aid was an important factor in the prosecution of the war against Germany, and continues to be important in the support of the United States occupation forces in Germany, and in the redeployment and evacuation of United States troops and equipment from Europe.

The excess of reciprocal aid which Belgium provided has created serious economic problems for Belgium, at a time when there were insufficient consumer supplies and when the productivity of Belgium industry was still suffering from the ravages of war and the burdens imposed upon it by the occupation.

To alleviate these economic consequences of the Belgian support of the Allied cause and to strengthen Belgium in the interest of the United States armed forced still in Europe and continuing to draw heavily on Belgian resources for transportation and other services, the United States Government has authorized that the following steps be taken:

The United States will pay dollars to Belgium, on a monthly basis, for the francs advanced to the United States Army by the Belgian Government after September 2, 1945. Heretofore these dollar payments have been made on a deferred basis except for 23 million dollars paid during the current year. As a result of the present negotiations, a further payment of 61 million dollars has already been made on account of net troop pay advances made in francs by the Belgian Government prior to September 2, 1945.

The United States has also agreed to make dollar payment for all goods and services furnished to United States armed forces after September 2, 1945. These goods and services prior to VJ-day were furnished by the Belgian Government as reciprocal aid, without charge to the United States Army. As noted above, by VJ-day these goods and services exceeded by at least $90 million all the lend-lease aid authorized to be given to Belgium.

In view of this excess of reciprocal aid, the United States Government has further agreed to offset against it the amounts which the Belgian Government is required to pay under the 3 (c) lend-lease agreement of April 17, 1945. The 3 (c) agreement between the United States and Belgium provides that whatever goods the United States may transfer under its terms to Belgium after VJ-day

shall be paid for on a credit basis. On August 17 the President authorized the transfer of certain goods and services to Belgium under terms of this agreement following VJ-day. The amount of goods and services to be so transferred is approximately $42 million. The recent action of the United States Government means that this debt will be considered to be satisfied by reason of the extent to which Belgian reverse lend-lease exceeds lend-lease heretofore provided by United States.

In addition the United States Government has authorized the transfer to Belgium of articles having civilian utility which the United States Army no longer requires for its own uses. The United States Army has substantial quantities of equipment, clothing and foodstuffs which are greatly needed by liberated areas of Europe and which would otherwise be declared surplus. There is a great deal of this kind of property in Belgium. Most important of such items are medical supplies, clothing and shoes, trucks and trailers, building materials, and reconstruction equipment and certain raw materials. Under the arrangements announced today the Belgian Government will be permitted to select up to $45 million of such articles, to be transferred under straight Lend-Lease. The articles transferred will be of the types which were to be supplied under the 3 (c) agreement between the United States and Belgium, and their transfer to Belgium at this time will serve to improve the Belgian economic situation and to strengthen those activities of the Belgian economy which are still important to the servicing and supplying of our occupation forces and the evacuation of our troops from Europe.

These arrangements, it is felt by both Governments, will facilitate the conclusion of a final settlement of lend-lease under the master agreement. Conversations looking toward such a final settlement, which would include agreed action contemplated in Article VII of the agreement, including questions of commercial policy, will be held between the two governments in the near future.

During the negotiations consideration was also given to questions pertaining to commercial policy and the desire of the United States Government that discussions be held in the immediate future on mutually advantageous measures with a view to the elimination of all forms of discriminatory treatment in international commerce, payments and investments, with the objective of expanding production and increasing employment. It is understood that the Governments of Belgium and the United States mutually agree to confer together in the near future on questions of commercial policy and, pending such a conference, to avoid the adoption of new measures affecting international trade, payments or investments which would prejudice the objective of such a conference. It was also suggested that the two governments should mutually agree to afford to each other adequate opportunity for consultation regarding such measures.

Principal delegates in the negotiations which have been conducted over the period of several weeks were:

For the United States:

Mr. WILLARD L. THORP,
Deputy to the Honorable William L. Clayton, Assistant Secretary of State, assisted by officers from State, Treasury and FEA.

For Belgium:

M. PAUL HENRI SPAAK,
Minister of Foreign Affairs,

M. PAUL KRONACKER,
Minister of Supply,

M. CAMILLE GUTT,
Minister of State, assisted by technical advisers from the Office of Mutual Aid, the Foreign Office and the Ministry of Supply.

EXHIBIT IX–C

EXCHANGE OF NOTES BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND GREECE ON THE NEGOTIATION OF MEASURES LOOKING TOWARD PROMOTING WORLD EXPANSION OF PRODUCTION, EMPLOYMENT, AND THE EXCHANGE AND CONSUMPTION OF GOODS

ROYAL GREEK EMBASSY.
Washington, D. C., January 2, 1946.

His Excellency Mr. JAMES F. BYRNES,
Secretary of State, Washington, D. C.

EXCELLENCY: I have the honor to make the following statement of the understanding reached during our recent discussions:

1. With a view to promoting the expansion of production, employment, and the exchange and consumption of goods, the Government of the United States of America and the Greek Government hereby undertake that they will enter into negotiations at an appropriate date for the reaching of agreement between themselves and with other countries of like mind on mutually advantageous measures directed to the reduction of tariffs and trade barriers, and the elimination of all forms of discriminatory treatment in international commerce, payments and investments.

2. Pending the conclusion of negotiations envisaged in the foregoing paragraph, the Governments of the United States of America and Greece declare it to be their policy to avoid the adoption of new measures affecting international trade, payments or investments which would prejudice the objectives of such agreement. The two Governments shall afford each other an adequate opportunity for consultation regarding proposed measures falling within the scope of this paragraph.

Accept, Excellency, the renewed assurances of my highest consideration.

DIAMANTOPOULOS.

DEPARTMENT OF STATE,
Washington, D. C., January 11, 1946.

His Excellency CIMON P. DIAMANTOPOULOS,
Ambassador of Greece.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of January 2, 1946 concerning the understanding reached during our recent discussions in regard to promoting the expansion of production, employment and the exchange and consumption of goods, and hereby confirm your statement of the understanding reached as therein set out.

Accept, Excellency, the renewed assurances of my highest consideration.

DEAN ACHESON,
Acting Secretary of State.

EXHIBIT IX–D

NOTES EXCHANGED BETWEEN THE POLISH AMBASSADOR AND THE ACTING SECRETARY OF STATE, REGARDING THE SUCCESSFUL CONCLUSION OF NEGOTIATIONS FOR THE EXTENSION BY THE EXPORT-IMPORT BANK OF THE LIMITED CREDIT OF $40,000,000 TO POLAND

DEPARTMENT OF STATE,
April 24, 1946.

His Excellency OSKAR LANGE,
Ambassador of Poland.

EXCELLENCY: The Government of the United States, desirous of aiding the people of Poland in their efforts to repair war damages and to reconstruct the Polish economy, expresses its satisfaction at the successful conclusion of the negotiations concerning the opening of credits of $40,000,000 to the Provisional Government of Poland by the Export-Import Bank of Washington, D. C., and the

satisfactory conclusion of arrangements for extending credits up to $50,000,000 for the purchase by Poland of United States surplus property held abroad.

The Government of the United States hopes that these agreements will prove to be the first step toward durable and mutually beneficial economic and financial cooperation between the Governments of the two countries. It believes, however, that such cooperation can develop fully only if

(1) a general framework is established within which economic relations between Poland and the United States can be effectively organized on the basis of principles set forth in Article VII of the Mutual Aid Agreement of July 1, 1942, so as to result in the elimination of all forms of discriminatory treatment in international commerce, and the reduction of tariffs and other trade barriers;

(2) the Provisional Government of Poland is in accord with the general tenor of the "Proposals for Expansion of World Trade and Employment" recently transmitted to the Provisional Government of Poland by the Government of the United States, and undertakes together with the Government of the United States to abstain, pending the participation of the two Governments in the general international conference on trade and employment contemplated by the "Proposals", from adopting new measures which would prejudice the objectives of the conference;

(3) the Provisional Government of Poland will continue to accord to nationals and corporations of the United States the treatment provided for in the Treaty of Friendship, Commerce and Consular Rights between the United States and Poland, signed June 15, 1931;

(4) the Government of the United States and the Provisional Government of Poland will make both adequate and effective compensation to nationals and corporations of the other country whose properties are requisitioned or nationalized;

(5) the Provisional Government of Poland and the Government of the United States agree to afford each other adequate opportunity for consultation regarding the matters mentioned above, and the Provisional Government of Poland, recognizing that it is the normal practice of the Government of the United States to make public comprehensive information concerning its international economic relations, agrees to make available to the Government of the United States full information, similar in scope and character to that normally made public by the United States, concerning the international economic relations of Poland.

The Government of the United States undertakes herewith to honor and to discharge faithfully the obligations which relate to the United States specified in points (1) through (5) above, and would be pleased to receive a parallel undertaking from the Provisional Government of Poland with respect to those obligations specified in points (1) through (5) above which relate to Poland.

Accept, Excellency, the renewed assurances of my highest consideration.

DEAN ACHESON,
Acting Secretary of State.

EMBASSY OF POLAND,
April 24, 1946.

SECRETARY OF STATE,
Department of State, Washington, D. C.

DEAR SIR: The receipt is acknowledged, on behalf of the Provisional Government of Poland of your note of April 24, 1946 reading as follows:

"The Government of the United States, desirous of aiding the people of Poland in their efforts to repair war damages and to reconstruct the Polish economy, expresses its satisfaction at the successful conclusion of the negotiations concerning the opening of credits of $40,000,000 to the Provisional Government of Poland by the Export-Import Bank of Washington, D. C., and the satisfactory conclusion of arrangements for extending credits up to $50,000,000 for the purchase by Poland of United States surplus property held abroad.

"The Government of the United States hopes that these agreements will prove to be the first step toward durable and mutually beneficial economic and financial cooperation between the Governments of the two countries. It believes, however, that such cooperation can develop fully only if

"(1) a general framework is established within which economic relations between Poland and the United States can be effectively organized on the basis of principles set forth in Article VII of the Mutual Aid Agreement of July 1, 1942, so as to result in the elimination of all forms of discriminatory

treatment in international commerce, and the reduction of tariffs and other trade barriers;

"(2) the Provisional Government of Poland is in accord with the general tenor of the 'Proposals for Expansion of World Trade and Employment' recently transmitted to the Provisional Government of Poland by the Government of the United States, and undertakes together with the Government of the United States to abstain, pending the participation of the two Governments in the general international conference on trade and employment contemplated by the 'Proposals', from adopting new measures which would prejudice the objectives of the conference;

"(3) the Provisional Government of Poland will continue to accord to nationals and corporations of the United States the treatment provided for in the Treaty of Friendship, Commerce and Consular Rights between the United States and Poland, signed June 15, 1931;

"(4) the Government of the United States and the Provisional Government of Poland will make both adequate and effective compensation to nationals and corporations of the other country whose properties are requisitioned or nationalized;

"(5) the Provisional Government of Poland and the Government of the United States agree to afford each other adequate opportunity for consultation regarding the matters mentioned above, and the Provisional Government of Poland, recognizing that it is the normal practice of the Government of the United States to make public comprehensive information concerning its international economic relations, agrees to make available to the Government of the United States full information, similar in scope and character to that normally made public by the United States, concerning the international economic relations of Poland.

"The Government of the United States undertakes herewith to honor and to discharge faithfully the obligations which relate to the United States specified in points (1) through (5) above, and would be pleased to receive a parallel undertaking from the Provisional Government of Poland with respect to those obligations specified in points (1) through (5) above which relate to Poland."

Under instructions from my Government, I have the honor to communicate to you the following:

The Provisional Government of Poland shares the views of the United States as expressed by the Secretary of State and undertakes herewith to honor and to discharge faithfully the obligations which relate to Poland specified in points (1) through (5) of the note under reference.

Accept, Sir, the renewed assurances of my high consideration.

OSKAR LANGE

EXHIBIT IX-E

TEXTS OF AGREEMENTS BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE PROVISIONAL GOVERNMENT OF THE FRENCH REPUBLIC IN RELATION TO ECONOMIC AND FINANCIAL PROBLEMS OF INTEREST TO THEIR RESPECTIVE COUNTRIES

Comprising (1) a joint declaration by the President of the United States and the President of the Provisional Government of the French Republic, (2) a joint declaration on commercial policy and related matters, (3) a memorandum of understanding regarding the settlement of lend-lease, reciprocal aid, surplus war property, and financial claims arising out of the conduct of the war, (4) understanding of the Government of the United States of America and the Provisional Government of the French Republic with respect to the exhibition of American motion pictures in France)

DECLARATION MADE IN WASHINGTON BY THE PRESIDENT OF THE UNITED STATES AND IN PARIS BY THE PRESIDENT OF THE PROVISIONAL GOVERNMENT OF THE FRENCH REPUBLIC ON MAY 28, 1946

Representatives of the Government of the United States and the Provisional Government of the French Republic have met together in Washington and have discussed important economic and financial problems of common interest. These

problems have included the need for foreign credits for reconstructing and modernizing the French economy, the settlement of lend-lease, reciprocal aid and other war accounts, the purchase of United States surplus property situated in France and certain French overseas territories, the purchase of ships owned by the United States, and international commercial policy.

The discussions have brought out clearly the full agreement of the two Governments on cooperation in the fulfillment of the economic objectives which both Governments recognize as essential to world peace and prosperity. The well-being of the people of all nations can be advanced through a full flow of trade which enables each country to maintain higher levels of production and better standards of living. These benefits of world trade can be realized only as the markets of the world are opened to all countries on fair and equal terms. The two Governments are determined to work together in security general international acceptance of the world trade proposals of the United States to be considered by a conference of the United Nations.

The reconstruction and modernization of the French economy will facilitate the integration of Europe in the world economy and enable France to resume her place as a great producing and trading nation. The French Delegation has presented a program for reconstructing and modernizing the economy of France. The immediate objective is to restore French production to the prewar level; the ultimate objective is to expand French production to higher levels commensurate with the technical progress of the past two decades. One requisite for the fulfillment of this program is an adequate and assured supply of coal, not only from increased French production, but also from imports of German coal. The United States Government will continue to assist France in securing an adequate supply of coal from Germany.

In the opinion of the American representatives, attainment of the objectives of increased production and trade presented by the French Delegation is necessary to the full and effective participation of France in the world economy. In furtherance of the efforts of the French people to this end, the United States has agreed to the extension of additional credits to France.

At the end of 1945 the Export-Import Bank made a loan of $550 million to France. The Board of Directors of the Export-Import Bank have now approved a new line of credit of $650 million. This action has been taken pending the time when the International Bank for Reconstruction and Development will be in full operation.

The two Governments have reached complete agreement for the final settlement of all lend-lease and reciprocal aid, including military and civilian supplies furnished by each Government to the other. They have also agreed on the acquisition of United States army and navy surplus property located in France and certain French overseas territories. Under this Agreement, credits of $720 million have been provided for the purchase of surplus property and for goods supplied to France since the end of the war.

Discussions are taking place for an additional credit, subject to the provisions of the Merchant Ship Sales Act of 1946, whereby France will acquire approximately 750,000 tons of merchant shipping owned by the Government of the United States.

The two Governments believe that the results of the discussions which have now been concluded will help France in reconstructing and modernizing the French economy and are a substantial step towards the achievement of the international economic cooperation which is the prerequisite of a peaceful and prosperous world. They welcome the support of all of the United Nations in establishing a world trading and monetary system which will assure a full flow of commerce to the benefit of the peoples of all countries.

Declaration by the Government of the United States of America and the Provisional Government of the French Republic on Commercial Policy and Related Matters

The Government of the United States and the Provisional Government of the French Republic, having concluded comprehensive discussions on commercial policy and related matters, find themselves in full agreement on the general principles which they desire to see established to achieve the liberation and expansion of international trade, which they deem to be essential to the realization of world wide prosperity and lasting peace

The French Government has made known to the United States Government the measures which it has taken and intends to take to make possible the attainment of this common objective. The French Government has also made known to the United States Government its plan for the reconstruction and modernization of the French economy. In accordance with the letters exchanged on November 8, 1945, the two Governments have examined this plan and have agreed that the attainment of its objectives should make possible full participation by France in the cooperative achievement of an expanding world economy.

The two Governments have studied the problems involved in the construction of a general framework for world trade and have also examined a number of specific questions relating to commercial policy and other matters which are of interest to themselves and to other countries. The following joint statement by the two Governments summarizes the understandings reached in these discussions.

I

The two Governments are in complete agreement, at all important points, on the principles expressed in the "Proposals for Consideration by an International Conference on Trade and Employment" submitted to the French Government by the Government of the United States. They have therefore resolved to continue discussions between themselves and with other like-minded countries in order to give effect to these principles in the Charter of the proposed International Trade Organization. The two Governments are of the opinion that the prior conclusion of agreements among the major trading nations of the world for the substantial reduction of tariffs and other barriers to trade and for the removal of discriminatory arrangements would contribute greatly to the success of the World Conference.

II

The French Government has advised the United States Government of the following policies:

(a) A new French tariff is being prepared which will contain *ad valorem* duties only and which will not increase the degree of protection over the level which existed prior to the war. This new tariff will serve as the level from which reciprocal reductions will be negotiated in the forthcoming multilateral conference.

(b) France has definitely abandoned its prewar policy of protecting French producers with import quotas.

(c) The French Government has reiterated that it has abandoned the price equalization (perequation) procedure which it was compelled to use provisionally during the period prior to the revaluation of the franc in order to facilitate exports.

III

The French Government has made clear that it must maintain import controls within the framework of an import program but that it will maintain such controls only so long as they are necessary to safeguard the equilibrium of its balance of payments and to achieve in an orderly way its plan of reconstruction and modernization. The French Government will administer the issuance of import licenses under the French import program without discrimination as among foreign sources of supply as soon as France possesses, or is able to earn, sufficient free foreign exchange so that it is no longer necessary for her to make her purchases within the limits of bilateral trade and financial arrangements.

IV

The two Governments have reached a mutually satisfactory understanding on the return to private channels of trade between France and the United States. The French Government has already restored to private channels a large part of the import trade of France and its colonies, and will continue to curtail the foreign procurement activities of the Government.

French Government procurement in the United States will be limited to equipment for public corporations and agencies. For the time being, Government procurement will also be continued for a restricted list of items, such as short supply foodstuffs, steel, lumber, tires and certain medical supplies.

Temporarily, a part of French imports will be handled by associations of private traders (groupments) until the difficulties of loading, shipment, and transport of essential supplies and their distribution in France are overcome.

The French Supply Council in the United States will continue to operate on a reduced scale, engaging principally in the liquidation of outstanding contracts and governmental procurement as indicated above. It will limit its purchases to the satisfaction of essential civilian requirements; it will make the maximum practicable use of normal trade channels; it will pursue methods consistent with commercial practices and it will cease operations as soon as possible.

V

The two Governments have agreed that important benefits would accrue to both countries from a substantial expansion of French exports to the United States. They have discussed certain United States laws and regulations, which, in the opinion of the French Government, tend to hamper unduly the importation of French products into the United States. Special attention has been given to trade mark and copyright legislation, the use of geographic names related to particular products, price control of imported goods, and valuation of imported goods for the assessment of customs duties. The various agencies of the United States Government which are concerned with these matters have agreed to give careful and sympathetic consideration to the views of the French Government, and to study the possibility of altering their administrative procedures or recommending to the Congress the revision of existing legislation.

VI

The two Governments have agreed, subject to participation in the program by other important industrial nations, each to license freely and without royalty to the nationals of the other, on conditions of reciprocity, all former German-owned patents which have come into the full possession of either Government, reserving only those rights which have already been granted with respect to such patents. The two Governments believe that the general adoption of this policy will eliminate an important barrier to international trade and will contribute substantially to the achievement of expanding world economy. In accordance with these objectives, they have agreed, at some future time, jointly to consider other questions relating to German patents.

VII

The French Government will accord to American nationals who have suffered damage to their properties in France, through causes originating in the war, compensation equal to that payable to French nationals having the same types and extent of losses. The United States Government has informed the French Government that equality of treatment is accorded to French and American nationals with reference to war damages to property in the United States.

VIII

In order to provide a sound framework for the expansion of mutually beneficial economic relations between their two countries, the Governments of France and the United States have agreed to begin negotiations as soon as possible looking toward the conclusion of a modern and comprehensive Treaty of Establishment, Commerce and Navigation.

DONE at Washington, in duplicate, in the English and French languages, this 28th day of May, 1946.

For the Government of the United States of America:

/S/ JAMES F. BYRNES,
Secretary of State of the United States of America.

For the Provisional Government of the French Republic:

LEON BLUM,
Ambassador Extraordinary and Plenipotentiary of the Republic of France.

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE PROVISIONAL GOVERNMENT OF THE FRENCH REPUBLIC REGARDING SETTLEMENT FOR LEND-LEASE, RECIPROCAL AID, SURPLUS WAR PROPERTY, AND CLAIMS

1. The Government of the United States of America and the Provisional Government of the French Republic have reached an understanding for the final settlement of lend-lease and reciprocal aid, and of the French obligation to the United States Government under the military supply program (Plan A); the acquisition by the French Government of certain United States Army and Navy surplus property, including installations, located in France and certain French overseas territories, and for the final settlement of other financial claims of each Government against the other arising out of the conduct of the war. In arriving at this understanding both Governments have recognized the considerations expressed in Article VII of their Preliminary Agreement of February 28, 1945, on the principles applying to mutual aid, as well as the benefits accruing to each from the contributions of both to the defeat of their common enemies. In the light of the foregoing, both Governments agree that no further benefits will be sought as consideration for lend-lease and reciprocal aid.

2. The net amount due from the French Government to the United States Government for the foregoing, including all indebtedness arising from provisions of the lend-lease and reciprocal-aid agreements of February 28, 1945, is $728,000,000, made up in part of amounts now agreed upon and in part of estimated amounts subject to revision. The latter, for which the best available figures have been used pending their final determination by agreed accounting procedures, represent in the main transfers after September 1, 1945.

3. The French Government will pay interest on the net amount due to the United States Government from July 1, 1946, at the rate of two percent per annum. Such interest payments will be made annually on the first day of July of each of the years 1947 to 1950, inclusive. Beginning on July 1, 1951, interest and principal will be paid in thirty (30) equal annual instalments. Each instalment shall consist of the full amount of the interest due for the year preceding the July 1 on which the payment is made, and the remainder of the instalment shall be the principal due in that year. Nothing herein shall be construed to prevent the French Government from anticipating the payment of any of such instalments, or of any part thereof. If, by agreement of both Governments, it is determined that because of extraordinary and adverse economic conditions arising during the course of payment, the payment of any instalment would not be in the joint interest of both Governments, payment may be postponed for an agreed upon period.

To the extent that the terms of payment provided in this paragraph 3 are inconsistent with those contained in previous agreements, the provisions of this paragraph shall prevail.

4. The two Governments have agreed upon arrangements and procedures for the settlement of past and future troop pay and procurement of United States Armed Forces in France and French overseas territories.

5. As and when requested by the United States Government from time to time prior to January 1, 1950, the French Government will transfer to the United States Government real property to be mutually agreed upon and not to exceed a total dollar value of $15,000,000. In addition, the French Government will provide, at the request of the United States Government, francs representing an aggregate dollar value not in excess of $10,000,000. Any francs so transferred will be furnished at the exchange rate established in conformity with procedures of the International Monetary Fund, or if no such rate exists, at the rate used in official French Government transactions at the time of such transfer. The United States Government will use francs so transferred exclusively to acquire or improve real property for United States Government use or to carry out educational programs agreed between the two Governments.

Transfers made in accordance with this paragraph 5 will be credited first to interest then due and then to instalments of principal in direct order of maturity.

6. The two Governments have also agreed upon the following:

a) All claims and financial obligations between the two Governments arising out of the acquisition, operation, disposition or loss of French vessels and cargoes of such vessels while under United States control will be settled by the United States for $17,500,000 in accordance with the provisions of an agreement relating to the purchase by France of up to 75 Liberty ships.

b) Both Governments express their intention of entering into a maritime claims agreement, providing for the mutual waiver of intergovernmental claims arising from maritime accidents, and for the handling by each Government of claims asserted in its courts by its nationals against the other Government and based on maritime accidents occurring prior to November 1, 1945.

c) As part of the general settlement, the French Government has agreed to process and pay all unpaid claims of French residents against the United States Government arising out of the use or infringement in war production of patent rights held by them, out of the requisitioning by the United States Government for use in the war program of any property interest owned by French residents, and out of acts or omissions prior to July 1, 1946, in France or French overseas territories of members of the United States Armed Forces or civilian personnel attached to such Forces.

d) During the course of the negotiations both Governments have reached agreement on the disposition of certain specific claims of one Government against the other. All other financial claims of either Government against the other, except where liability has heretofore been acknowledged and the method of computation agreed, which (1) arose out of lend-lease or reciprocal aid, or (2) otherwise arose on or after September 3, 1939, and prior to September 2, 1945, out of or incidental to the conduct of the war, not otherwise dealt with in this Memorandum of Understanding, are hereby waived.

e) Appropriate non-discriminatory treatment will be extended by the French Government to United States nationals in the use and disposition of installations in the building of which there has been a United States Government contribution and which are transferred under this settlement.

f) The United States Government reserves its right of recapture of any lend-lease articles held by the French Armed Forces, except petroleum products and an agreed list of non-combat aircraft. The United States Government has indicated that it does not intend to exercise generally this right of recapture, except that vessels of the United States Navy and lend-lease merchant vessels are to be returned to the United States Government unless otherwise agreed.

g) Disposals for military use to forces other than the French Armed Forces of lend-lease articles held on September 2, 1945, or received thereafter by the French Armed Forces, and disposals for civilian use other than in France and French overseas territories of such lend-lease articles, will be made only with the consent of the United States Government and any net proceeds will be paid to the United States Government. The French Government will not, except to a very limited extent, release for civilian use in, or export from, France and French overseas territories lend-lease articles held by the French Armed Forces.

h) Except as otherwise provided in this Memorandum of Understanding, the French Government and the United States Government receive full title to lend-lease and reciprocal aid articles respectively held as of September 2, 1945, or transferred thereafter. If any United States surplus installation not transferred under this Memorandum of Understanding contains a lend-lease interest, such lend-lease interest is retained by the United States.

i) The United States Government will undertake to make available to the French Government part of the United States Government's share of captured German and Japanese surface naval vessels when such vessels become excess to United States needs and are no longer needed for any task connected with the implementation of the German and Japanese surrenders.

7. The two Governments agree to conclude such specific agreements as may be necessary to implement this general understanding.

8. This Memorandum of Understanding will be effective upon signature, and instruments of ratification will be exchanged as soon as possible.

DONE AT WASHINGTON, in duplicate, in the English and French languages, both texts being equally authentic, this 28th day of May, 1946.

For the Government of the United States of America:

S/ JAMES F. BYRNES,
Secretary of State of the United States of America.

For the Provisional Government of the French Republic:

S/ LEON BLUM.

UNDERSTANDING OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE PROVISIONAL GOVERNMENT OF THE FRENCH REPUBLIC WITH RESPECT TO THE EXHIBITION OF AMERICAN MOTION PICTURES IN FRANCE

The Government of the United States and the Provisional Government of the French Republic, in the light of their broad agreement of this date on commercial policy objectives, and with special regard to changes brought about by the war, have reexamined certain problems relating to the exhibition in France of dubbed American motion picture films. As a result of these conversations, the French Government has informed the American Government that it will take the following measures which will be applied in the customs territory of France:

Effective July 1, 1946, all previous provisions concerning the number of dubbed films permitted to be shown in France will be abandoned. On the same date, a "screen quota" system will be instituted, as a temporary protective measure, to assist the French motion picture industry to recover from the disorganization caused by enemy occupation of France. Under this system, motion picture exhibitors in France will be required to exhibit French films for a certain number of weeks per quarter. During the remaining weeks, French exhibitors will be allowed free choice of films, foreign or domestic.

Beginning July 1, 1946, the screen quota reserved for French films will be not more than four (4) weeks per quarter.

The screen quota shall continue at the level of four (4) weeks per quarter unless reduced to three (3) weeks per quarter by the operation of the following automatic formula:

If, in any two-year period ending on June 30, 1948, or on June 30 of any subsequent year, feature films produced in France should obtain total playing time in French theatres equal to or greater than an average of five (5) weeks per quarter, the screen quota shall automatically be reduced to three (3) weeks per quarter effective October 1 following the expiration of such two-year period.

If, through the operation of the above formula, the screen quota should be reduced to three (3) weeks per quarter, it shall continue at that level unless terminated entirely by the operation of the following automatic formula:

If, in any two-year period ending on September 30, during the whole of which period a screen quota of three (3) weeks per quarter is in effect, feature films produced in France should obtain total playing time in French theatres equal to or greater than an average of five (5) weeks per quarter, the screen quota shall be entirely abolished effective January 1 following the expiration of such two-year period.

The French Government has agreed that, in the period following during which the screen quota remains in force, it will impose no restrictions whatever on the importation of American films into France, and no restrictions other than the screen quota on the exhibition of American films in France, except such restrictions as are also applied to French films. If, through the operation of this plan, the screen quota should be entirely abolished, there will be, on and after the effective date of such abolition, no restrictions on the importation of American films into France, and no restrictions on the exhibition of American films in France, except such restrictions as are also applied to French films.

The United States Government has noted with satisfaction that the new measures to be taken by the French Government contemplate the complete elimination of protection when the French producing industry has regained its competitive strength.

If, in the opinion of either Government, this plan should, at some future time, be inappropriate to the conditions then prevailing in the French motion picture producing industry or in the French motion picture market, each Government has reserved the right to request the other to undertake negotiations looking toward its modification or termination. If, upon the expiration of six months from the date of such a request, these negotiations shall not have reached a conclusion satisfactory to both Governments, the terms of the Reciprocal Trade Agreement which is then in effect between them shall apply.

DONE at Washington, in duplicate, in the English and French languages, this 28th day of May, 1946.

For the Government of the United States of America:

S/ JAMES F. BYRNES,
Secretary of State, of the United States of America.

For the Provisional Government of the French Republic:

S/ LEON BLUM,
Ambassador Extraordinary and Plenipotentiary of the Republic of France.

EXHIBIT IX–G

IDENTICAL NOTES EXCHANGED BETWEEN THE AMBASSADOR OF CZECHOSLOVAKIA AND THE ACTING SECRETARY OF STATE EMBODYING AN AGREEMENT BETWEEN THE GOVERNMENT OF CZECHOSLOVAKIA AND THE GOVERNMENT OF THE UNITED STATES CONCERNING COMMERCIAL POLICY, COMPENSATION FOR NATIONALIZED PROPERTIES AND RELATED MATTERS.

DEPARTMENT OF STATE,
November 14, 1946.

His Excellency Dr. JURAJ SLAVIC,
Ambassador of Czechoslovakia.

EXCELLENCY: The Government of the United States expresses its satisfaction at the successful conclusion of the discussions with the Government of Czechoslovakia concerning commercial policy, compensation for nationalized properties and related matters of mutual interest in furthering the economic relations between their two countries. These discussions have resulted in agreement by the two Governments on the following matters:

1. The two Governments affirm their continued support of the principles set forth in Article VII of the Mutual Aid Agreement of July 11, 1942, and reiterate their desire to achieve the elimination of all forms of discriminatory treatment in international commerce, and the reduction of tariffs and other trade barriers.

2. The Government of Czechoslovakia is in accord with the general tenor of the "Proposals for Expansion of World Trade and Employment" recently transmitted to the Government of Czechoslovakia by the Government of the United States. Pending the conclusion of the negotiations at the general international conference on trade and employment contemplated by the "Proposals", the two Governments declare it to be their policy to abstain from adopting new measures which would prejudice the objectives of the conference.

3. The two Governments share the view that the conduct of international trade through the mechanism of bilateral barter, clearing, and similar agreements is generally not compatible with the maximization of benefits derived from trade or with the goal of eliminating trade discrimination. The Government of Czechoslovakia has expressed the view, however, that the use of such agreement during the postwar transition period has been necessary, but it will direct its efforts to their abandonment and a return to multilateralism at the earliest possible date.

4. The Government of Czechoslovakia has declared that it must maintain a system of import and export control during the postwar transition period in order to safeguard the equilibrium of its balance of payments while seeking to achieve in an orderly way its plan of economic reconstruction. The Government of Czechoslovakia will administer the issuance of import licenses without discrimination as among foreign sources of supply as soon as Czechoslovakia possesses or is able to obtain sufficient free foreign exchange so that it is no longer necessary for her to make her purchases within the limits of bilateral trade and financial agreements.

5. If the Government of either country establishes or maintains a monopoly or enterprise for the importation, exportation, purchase, sale, distribution or production of any article, or grants exclusive privileges to any enterprise to import, export, purchase, sell, distribute or produce any article, such monopoly or enterprise shall accord to the commerce of the other country fair and equitable treatment in respect of its purchases of articles the growth, produce or manufacture of foreign countries and its sales of articles destined for foreign countries. To this end the monopoly or enterprise shall, in making such purchases or sales of any article, be influenced solely by considerations, such as price, quality, marketability, transportation and terms of purchase or sale, which would ordinarily be taken into account by a private commercial enterprise interested solely in purchasing or selling such article on the most favorable terms.

6. The two Governments express their intention at the earliest practicable date to enter into negotiations looking toward the conclusion of a comprehensive treaty of friendship and commerce which will regulate to their mutual satisfaction economic relations between the two countries. Meanwhile the two Governments have taken cognisance of the fact that each continues to accord to articles the growth, produce or manufacture of the other unconditional most-favored-nation treatment with respect to customs duties, the rules and formali-

ties of customs, and the taxation, sale, distribution, and use within its territory of such articles consistent with provisions of the former trade agreement between the two countries dated March 7, 1938.

7. The Government of the United States and the Government of Czechoslovakia will make adequate and effective compensation to nationals of one country with respect to their rights or interests in properties which have been or may be nationalized or requisitioned by the Government of the other country. In this connection, the Government of the United States has noted with satisfaction that negotiations concerning compensation on account of such claims will shortly begin in Praha.

8. The two Governments agree to afford each other adequate opportunity for consultation regarding the matters mentioned above, and the Government of Czechoslovakia, recognizing that it is the normal practice of the Government of the United States to make public comprehensive information concerning its international economic relations, agrees to make available to the Government of the United States full information, similar in scope and character to that normally made public by the United States, concerning the international economic relations of Czechoslovakia.

The Government of the United States will be pleased to receive from the Government of Czechoslovakia a statement confirming its understanding of this agreement reached by the two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

DEAN ACHESON,
Acting Secretary of State.

The note from the Ambassador of Czechoslovakia confirms the Government of Czechoslovakia's understanding of the agreement reached by the two Governments. The substance of the Czechoslovak note is identical with the United States note quoted above.

EXHIBIT IX–H

NOTES EXCHANGED BETWEEN THE AMBASSADOR OF THE NETHERLANDS AND THE ACTING SECRETARY OF STATE EMBODYING AN AGREEMENT BETWEEN THE NETHERLANDS GOVERNMENT AND THE GOVERNMENT OF THE UNITED STATES CONCERNING COMMERCIAL POLICY

NOVEMBER 21, 1946.

His Excellency DR. A. LOUDON,
Ambassador of the Netherlands.

EXCELLENCY: I have the honor to make the following statement of the understanding reached during the discussions concerning the "Proposals for Expansion of World Trade and Employment", transmitted to the Netherlands Government by the Government of the United States of America, and the general international conference on trade and employment contemplated by those Proposals.

Pending the conclusion of the negotiations at this conference, the Netherlands Government and the Government of the United States of America declare it to be their policy to abstain from adopting new measures which would prejudice the objectives of the conference. In this connection your Government has indicated that it may need to adopt special measures for the Netherlands and for the Netherlands Indies in view of the extraordinary conditions consequent upon the termination of the war. My Government recognizes that it may be necessary for the Netherlands Government to take certain emergency measures during the post-war transitional period, and in fact has provided for such measures in the aforementioned Proposals. Any such emergency measures would not, of course, prejudice the objectives of the conference. It is understood, moreover, that modifications in the Netherlands customs tariff, on the basis of the Customs Agreement of September 5, 1944 between the Governments of the Netherlands, Belgium and Luxembourg, would not be considered new measures, since a result of this customs agreement will be that the general level of tariff rates for the three countries as a whole will not be raised. Our two Governments shall afford each other an ade-

quate opportunity for consultation regarding proposed measures falling within the scope of this paragraph.

I have the honor to suggest that this note and Your Excellency's reply confirming the foregoing shall be regarded as constituting an agreement between our two Governments concerning this matter.

Accept, Excellency, the renewed assurances of my highest consideration.

/s/ DEAN ACHESON,
Acting Secretary of State.

NOVEMBER 21, 1946.

The Honorable DEAN ACHESON,
Acting Secretary of State,
Washington, D. C.

SIR: I have the honor to acknowledge the receipt of your note of today's date in regard to the understanding reached during the recent discussions concerning the proposed general international conference on trade and employment, and hereby confirm your statement of the understanding reached as therein set out.

Accept, Sir, the renewed assurances of my highest consideration.

/s/ A. LOUDON.

EXHIBIT X

Department of State memorandum on bilateral agreements affecting world trade

A. GENERAL STATEMENT ON BILATERAL AGREEMENTS

The term "bilateral agreement" has in itself no precise meaning. Most agreements between governments relating to trade are bilateral, and there are a number of forms which such agreements may take. The following general types of bilateral agreement may be separately identified and cover approximately the range of opportunities open to governments for making bilateral arrangements respecting trade.

1. *Commercial Treaties.* These establish the foundations for trade relations.

2. *Trade Agreements,* of the type entered into by this Government with other governments. These provide for the reciprocal reduction of barriers to trade and establish the general framework within which trade will be conducted.

3. *Clearing Agreements.* These provide for the exchange of goods with a minimum of foreign exchange transactions. Importers pay their debts in their own currency and likewise exporters are paid in their own currency. Transfer of foreign exchange is thus eliminated.

4. *Payments Agreements.* These are designed to guarantee that the proceeds from sales by one country to another country shall be used for the payment of current imports from that country, or for settlement of arrears and other financial claims.

5. *Bulk Purchasing.* Bulk purchases are purchases of a particular commodity which commit a significant portion of a country's export of that commodity for a significant period in the future. The purchase may or may not be at a fixed price.

6. *Compensation Agreements.* Compensation agreements usually provide for the establishment of an equivalence in trade between the two contracting countries, with some financial settlement required, but involving a minimum of currency exchanged.

7. *Barter Agreements.* These arrange for an exchange of goods for goods, either with no values assigned or with values stated on a common basis in such a way as not to require any arrangement for centralized financial settlement.

Any given bilateral agreement may involve a combination of these types. This report is not concerned with either commercial treaties or the trade agreements which are of the type concluded under the reciprocal trade agreements program of the United States. Neither is this report primarily concerned with the type of bilateral agreement which grew up before the war and is still in existence, which has to do with financial settlement, which grew out of the shortage of currency, and which does not involve a specific transfer of commodities. The Monetary Fund and the Anglo-American Agreement will provide means of dealing with the conditions which underlie this type of agreement.

POSTWAR AGREEMENTS

The majority of the postwar bilateral agreements are a combination of compensation and clearing agreements, with a number of variations and special arrangements. The most numerous types of postwar agreement usually has some or all of the following characteristics:

1. The agreement is inter-governmental and strictly bilateral, but the governments usually do not themselves supply or purchase the products involved.
2. The agreement is of a short-term nature, generally of about a year's duration.
3. The agreement includes a list of products the shipment of which each of the two parties agrees to permit, up to the quantities or values specified, under whatever export control system the country in question regularly requires. The agreements thus usually authorize but do not guarantee the exchange of goods.
4. Settlement for goods exchanged is made through clearing accounts in the respective national banks in order to minimize transfers of currency.

In some cases, there are credits connected with certain of these agreements which may extend over a longer period of time than the year or so foreseen in the related agreement for exchange of commodities. Such credits are extended by countries with available exports (such as Sweden or Switzerland) to facilitate the resumption of trade with other countries whose supplies of foreign currency or of commodities for export are very low.

EXTENT OF AGREEMENTS

Since the end of the war, a great many commercial and financial agreements have been concluded between pairs of governments in all parts of the world. The number of these agreements between foreign governments can be judged from the tabulations which have been prepared for various areas as a part of this statement.

All inter-governmental bilateral trade or financial agreements on which information is available are included in these tabulations. However, the lists are probably not complete either as to number of agreements actually concluded or as to information on terms of the agreements. Official texts are not always made available, and in some cases the Department of State has been able to secure information concerning them only from confidential sources.

MOTIVATION FOR BILATERAL AGREEMENTS

While the typical postwar bilateral commercial or financial agreement is widespread in incidence, it is essentially a makeshift structure contrived to meet the temporary requirements of countries whose economies have been more or less disrupted by the war. Such agreements do not necessarily imply a permanent rejection of open competitive trading. They have been represented to this Government in virtually every case as an undesirable necessity which will be abandoned as soon as the conditions have been fulfilled which are an essential prerequisite to the conduct of multilateral trade.

It is evident that the vast majority of these postwar bilateral agreements are an attempt on the part of the countries involved to secure imports of the most urgently required commodities in the light of limitations imposed by scarce credits and scarce exports. Countries have been unwilling to export goods unless they could be certain of receiving needed goods in return. These agreements are largely a reflection of low levels of production throughout a large part of the world outside the United States, and of a world-wide shortage of goods as compared with expanded postwar demands. In the absence of stable or convertible currencies, it has been necessary for many countries to lean heavily on these two-way commodity exchanges which roughly balance out and which depend on clearing arrangements to facilitate in solving the monetary problem.

EFFECT ON UNITED STATES TRADE

The Department of State has observed these postwar agreements as closely as has been possible in order to ascertain whether substantial damage either to American trade or to the basic principles of United States commercial policy might result. In the few cases where the terms of a bilateral agreement have appeared to be in conflict with American policy, the agreement has involved large-volume, long-term arrangements between important trading nations, the

effect of which would be to obstruct the equitable conduct of trade on an openly competitive basis.

In most cases these bilateral arrangements do not directly affect the trade of the United States. They seldom involve significant quantities of a given commodity as compared with prewar trade in that product, and in few cases do they have the effect of preempting imports into other countries of commodities which United States exporters are anxious to send into the same markets. Moreover, there is a considerable difference between the trade which is *authorized* under many of these bilateral agreements and the trade which actually *moves* between the two countries. The lists of commodities which are included in these agreements are, particularly in the case of European countries, schedules which for exports reflect hope rather than level-headed forecasts of availability, and for imports are indicative of extensive requirements rather than attainable purchases.

FUTURE OF BILATERAL AGREEMENTS

While the pattern of trade under the postwar bilateral agreements described here is a not unreasonable response to immediate conditions, and while the vast majority of these agreements does not offer a direct threat to United States trade, such a pattern of bilateralism frozen into permanency and persisting into a period when there is no longer a world-wide shortage of commodities, would become restrictive of world trade and would run counter to the foreign economic policy of the United States.

The United States, therefore, has taken the initiative in supporting the establishment of agencies like the International Monetary Fund and the International Bank for Reconstruction and Development whose function it is to develop conditions conducive to the growth of world trade. By providing machinery for effective international monetary cooperation, currency stabilization and capital investment, both the Fund and the Bank will contribute to the establishment of conditions which will promote multilateral trade and make recourse to bilateral agreements unnecessary.

These aims will also be furthered by the results to be achieved in the negotiations shortly to be conducted among the 19 members of the United Nations Preparatory Committee of the International Conference on Trade and Employment. These negotiations represent an effort to counteract the bilateralism that developed during the early thirties and has received a special stimulus through the war and postwar period. The type of bilateral agreements now prevailing in so many countries of the world will become unnecessary . these efforts are successful.

B. European Bilateralism

The post-war trade of European countries has been characterized by (1) a structure of bilateral intergovernmental agreements in response to emergency conditions, including the scarcity of goods of all kinds and general financial instability, and (2) some significant alterations in the pattern of European trade as a result of the virtual disappearance of Germany as a continental European power and the increased importance of the USSR.

As of March 24, 1947, more than one hundred bilateral agreements were in effect between European countries (excluding Germany and the United Kingdom).[1]

These agreements have enabled European countries to carry on trade with most of their important pre-war trading partners, excepting, of course, Germany. On the whole, bilateral agreements are a response to post-war insecurity in Europe, economic and political, that has made multilateral or more freely competitive trade difficult or impossible.

(1) *The Extreme Scarcity of Commodities and the Inconvertibility of Currencies in the Post-war Period.* The fundamental purpose of bilateral agreements in Europe has been the provision of a foreseeable supply of needed commodities. Each government attempts to insure, although frequently without success, that it will receive essential imports from its trading partner in return for whatever exports it can provide out of its own limited production. No country suffering from war damage, occupation and disruption of its economic life, was in a position to release goods against purely monetary claims that might be honored only at some future period or might be honored by current deliveries of non-essential

[1] Including France, Belgium, Netherlands, Norway, Sweden, Denmark, Finland, Switzerland, Austria, Czechoslovakia, Hungary, Rumania, Yugoslavia, Bulgaria, Albania, Poland, USSR, Spain, Portugal, Italy, Greece, and Iceland. For listing of agreements, see detailed tabulation attached.

goods. Since nearly all liberated or ex-enemy countries of Europe were in need of more imports than could possibly be financed by current exports, no country was in a position to release its currency to foreign buyers, without rigid controls, and few currencies in Europe would be accepted at face value to settle claims abroad. Commodity agreements, therefore, have been accompanied by arrangements that implement bilateral trade by a system of internal payments, without use of foreign exchange. Payments due exporters and payments made by importers are retained in a central clearing account held by each of the participating countries and credits or debits in these accounts are derived only from the flow of commodities and some other current transactions between the participants. Generally, clearing accounts are required to balance, at specified dates or at termination of the agreement. The agreement may include penalty provisions, such as settlement in gold or suspension of deliveries, to insure that clearing accounts will not remain out of balance by more than a designated value. Extreme conditions of commodity scarcity and financial instability probably have been especially important factors, although not the sole explanation, behind the virtual withdrawal of Germany, Greece, Hungary, Rumania, Bulgaria, and until recently Austria, from post-war European trade.

(2) *The Disappearance of Germany.* The economic difficulties of European countries have been intensified by the sudden withdrawal of Germany as a significant, and in some cases chief, trading partner before European or other production was in a position to fill the gap. The scarcity of goods thereby has been made more acute. Also, since European countries have attempted to buy typical German products overseas, the scarcity of hard currency exchange, principally dollars, has been correspondingly increased. Reference to the anticipated values of bilateral agreements might indicate that some countries expect to attain in 1947 approximately the pre-war level of trade with European countries, excluding Germany. However, if pre-war trade with Germany and post-war price inflation in Europe are taken into account, as well as the frequent failures to deliver goods specified in outstanding agreements, the actual volume of intra-European trade is seen as still considerably below its pre-war level. As yet, the loss of an export market in Germany is not a limitation on European trade, but only because of the world-wide scarcity of goods, and the resulting demand for whatever goods Europe can now produce. In addition, the USSR has become a more important trading partner for Scandinavia, as well as for countries in the "Soviet sphere". The decline of Germany as a supplier of coal, machinery and industrial materials, however, presents a critical problem for many European countries. The latter must import part of their coal from the US at twice the cost of European coal and generally must limit their purchases of reconstruction goods[1] in direct proportion to their dollar resources, obtained from US credits, liquidation of dollar holdings and the limited current volume of their goods exported to the United States.

(3) *The political divisions of post-war Europe.* The post-war political importance of the USSR in Europe has definitely been reflected in the pattern of European trade. It is not true that European bilateral agreements have divided Europe into clear-cut eastern and western economic spheres or that bilateral trade patterns reflect *only* the lines of political friendship. Nevertheless, it is true that European countries have concluded relatively more agreements with their political friends and that formal trade relations between countries of eastern and western Europe are in most cases of relatively more recent date. In illustration, the number of agreements concluded in and between the eastern, western and Mediterranean areas may be compared with the total number of possible trade combinations in these areas:

	Number of trade agreements possible	Number of agreements concluded
Within western Europe (France, Belgium, Netherlands, Norway, Sweden, Denmark, Finland, Switzerland)	28	28
Between eastern and western Europe (the above with Austria, Czechoslovakia, Hungary, Rumania, Yugoslavia, Bulgaria, Albania, Poland, USSR)	72	37
Within eastern Europe (the countries enumerated above)	36	21
Total	136	86

[1] Over and above whatever goods are obtained under bilateral agreements.

With the exception of Italy, the Mediterranean countries have concluded relatively few agreements with the countries of eastern and western Europe.

	Number of trade agreements possible	Number of agreements concluded
Between western Europe and Mediterranean Europe (Spain, Portugal, Italy, Greece)	32	14
Between Mediterranean countries	6	1
Between eastern and Mediterranean Europe	36	6
Total, Mediterranean agreements	74	21
Ireland's agreements (all areas)	21	0
Grand total	231	113

In the Balkan area, trade with the USSR is of special importance, since Hungary, Rumania and Bulgaria are still occupied by USSR troops and Yugoslavia and Albania have governments whose policies are closely aligned with those of the USSR. Trade with the USSR is still a predominant share of Rumanian, Bulgarian and Yugoslav trade and was about 30% of Hungary's foreign trade in 1946. Since mid-1946, Balkan countries have to some extent "opened-up", at least to the point of concluding agreements with countries of western Europe. Because of reparation and occupation burdens, the drought in Rumania and the especially severe economic and financial dislocations in this area, it seems unlikely that their bilateral agreements with western European countries will be implemented to any substantial degree or that even their agreements with eastern European countries, including the USSR, will be fully implemented. In this area, therefore, the scarcity of goods available for commercial export (i. e., after reparation deliveries) may have been as important as political factors in hindering the revival of their trade with western European and non-European countries.

Poland and especially Czechoslovakia have established trade relations with nearly all countries of both eastern and western Europe. Actual trade with the USSR has been between 10 and 15% of Czechoslovakia's total trade. Czechoslovakia suffered little war damage, has attained a moderate degree of internal economic recovery, and was an important trading nation in pre-war Europe. Czechoslovakia, therefore, has been in a position to establish and to maintain a substantial volume of trade (both trade projected under bilateral agreements and actual trade resulting from bilateral agreements and dealings in free exchange) with countries of both eastern and western Europe. Poland has also concluded agreements with countries of both eastern and western Europe and has received exceptionally favorable terms (credits and part payments in free exchange) because of the extreme importance of Polish coal to the economies of European countries. In the case of Poland, however, the chief deterrent to full implementation of agreements with western Europe and an expansion of Poland's trade with western Europe has been the USSR claim on Polish coal under the terms of the 1945 agreement that allotted to Poland 15% of German reparations received or to be received by the USSR. Although trade with the USSR does not represent a predominant share of Poland's total trade foreseen under commercial agreements, the relatively poor implementation of Polish agreements in 1946 and the USSR claim on Polish coal under the reparations agreement did in fact direct the predominant share of Poland's coal exports to the USSR during 1946. In 1947, Polish coal exports under the reparations agreement have been reduced from 18 to 6½ million tons while commercial exports to the USSR will continue at approximately the current level of 1 to 2 million tons. Depending on the level of Polish coal production, it seems likely that the USSR will take about 50% of Polish coal exports in 1947. At the same time, it is likely that Poland's coal exports to western Europe in 1947 will be increased over present levels.

The trade agreements and trade of Scandinavian countries are oriented primarily toward western Europe and overseas. Nevertheless, Norway, Sweden and Denmark, geographically close to the USSR, have recently concluded important commercial agreements with the USSR. The largest of these, the Swedish-Soviet agreement, provides for an exchange of goods valued at $228 million in the current year and also provides for a Swedish credit in goods amounting to 50

million dollars per year for five years. Finland is paying reparations to the USSR and has maintained substantial commercial relations with the USSR in the post-war period. Trade with the USSR, however, does not dominate Finish trade. The number of Finnish agreements concluded with western countries and the Finnish desire to reserve woodpulp exports for hard currency areas, indicate that Finland's policy is oriented toward western Europe.

MARCH 20, 1947.

Most recent bilateral agreements between European countries for exchange of goods and transfer of payments

Unless noted under "exceptions" the following intra-European agreements have two main functions:

(1) *The Exchange of goods:* The partners to the agreement authorize the exchange of goods specified in an attached list, up to the values or quantities specified. In some cases, both quantities and values (i. e., average prices) are established. In other cases, particularly in eastern Europe, unit prices are also established, usually in U. S. dollars or Swiss francs.

(2) *The Procedure for Financial Settlement:* The partners arrange for the clearing of payments (i. e. without transfer of their own or third currencies) by establishing accounts in a central bank in one or both of the countries participating in the agreement. The exchange rate may be established or may be allowed to vary. Payments through clearing may be authorized only for the exchange of the goods specified in the agreement or may be authorized for all types of current financial claims and in a few cases for limited capital transfers. The clearing accounts may be permitted to be out of balance by specified amounts (i. e. a temporary clearing credit, unilaterally or reciprocally granted). A long term credit may also be granted (e. g. by Sweden or Switzerland). Settlement of clearing balances, either periodically or when the maximum clearing credit is exceeded or at termination of the agreement, may be made by additional deliveries of goods, by funding of the balance into debtor's treasury bonds, or by transfers of gold or free exchange.

I. AGREEMENTS BETWEEN COUNTRIES OF WESTERN EUROPE AND SCANDINAVIA

Partners	Effective dates	Exceptions
France-Belgium	July 1, 1946-June 30, 1947; supplemented February 1947 (September 1946 payments for indefinite term).	
France-Netherlands	Apr. 9-Dec. 31, 1946; extended to Mar. 31, 1947 (April 1946 payments for indefinite term).	
France-Norway	Mar. 26, 1946-Feb. 28, 1947; renewal expected.	
France-Sweden	July 1, 1946-June 30, 1947 (payments for June 1945-46).	
France-Denmark	May 1, 1946-Apr. 30, 1947 (supplemented January 1947).	
France-Finland	Mar. 14, 1947(?)-Mar. 13, 1948	
France-Switzerland	Aug. 1, 1946-July 31, 1947 (payments November 1945 indefinite term(?))	
Belgium-Netherlands	June 1, 1946-May 31, 1947; supplemented September 26 (payments at least 5 years.	
Belgium-Norway	Feb. 21, 1946-47; supplemented Oct. 29.	
Belgium-Sweden	Jan. 1-Dec. 31, 1947 (payments June 1946 for indefinite term).	
Belgium-Denmark	Jan. 1-Dec. 31, 1946; renewal probable (August 1945 payments for indefinite term).	
Belgium-Finland	Nov. 6, 1945-46 (quotas Nov. 6, 1946-Nov. 6, 1947; payments for November 1945-46).	
Belgium-Switzerland	July 1945-46; latest quotas Sept. 16, 1946-Sept. 15, 1947 (payments July 1945-46).	
Netherlands-Norway	Jan. 1-Dec. 31, 1947	
Netherlands-Sweden	Jan. 1-Dec. 31, 1947 (payments for November 1945-49).	
Netherlands-Denmark	Apr. 1, 1946-Mar. 31, 1947; supplemented December (payments 1945 or 1946, for indefinite term).	
Netherlands-Finland	June 1946-49, quotas June 1, 1946-May 30, 1947.	
Netherlands-Switzerland	Jan. 1, 1947-Dec. 31, 1948 (payments October 1945 probably for indefinite term).	
Norway-Sweden	Jan. 1-Dec. 31, 1947	
Norway-Denmark	Apr. 1, 1946-Mar. 31, 1947	1945 agreement was barter agreement, but it is probable that 1946 agreement provided clearing of payments, although no exact information is available.

I. AGREEMENTS BETWEEN COUNTRIES OF WESTERN EUROPE AND SCANDINAVIA—Continued

Partners	Effective dates	Exceptions
Norway-Finland	Nov. 1, 1946-Oct. 31, 1947 (1946 payments continued in 1946).	
Norway-Switzerland	Mar. 1, 1946-Feb. 28, 1947; renewal probable.	
Sweden-Denmark	Feb. 1, 1946 Jan. 31, 1947; supplemented October; renewal expected.	
Sweden-Finland	Feb. 1, 1946 Jan. 31, 1947; renewal probable.	Probably provides for clearing of payments.
Sweden-Switzerland	Apr. 1, 1946 Mar. 31, 1947; extended to June 30, 1947.	Agreement originally provided quotas only for some goods in short supply and had no special payments or clearing procedure. Excess of Swedish imports led to establishment of quotas for Swedish delivery and limitation on the amount of gold Switzerland would accept to settle outstanding balances.
Denmark-Finland	Mar. 1-Dec. 31, 1946; supplemented to Mar. 31, 1947.	Probably provides for clearing of payments.
Denmark-Switzerland	Jan. 1-Dec. 31, 1947 (payments, revision of 1946 agreement).	
Finland-Switzerland	June 1, 1946-May 31, 1947 (payments, revision of 1946 agreement).	
Total: 28.		

II. AGREEMENTS BETWEEN COUNTRIES OF WESTERN EUROPE AND SCANDINAVIA AND COUNTRIES OF EASTERN AND CENTRAL EUROPE

France-Austria	Nov. 10, 1946-Nov. 9, 1947 (6-month quotas only).	
France-Czechoslovakia	Aug. 1, 1946 July 31, 1947 (payments for August 1946 49).	
France-Hungary	Oct. 1, 1946-Sept. 30, 1947.	
France-Rumania	July 16, 1946; in effect to completion.	
France-Yugoslavia	June 18-Dec. 31, 1946; renewed unless denounced.	
France-Poland	Aug. 10, 1946-Aug. 9, 1947 (credit and presumably payments August 1946-50).	
Belgium-Austria	Jan. 18, 1947-Jan. 17, 1948 (payments for indefinite period).	
Belgium-Czechoslovakia	Jan. 1-Dec. 31, 1947.	
Belgium-Yugoslavia	Aug. 14-Dec. 31, 1946; unless denounced renewable for succeeding 6-month periods.	
Belgium-Poland	Sept. 1, 1946-Aug. 31, 1947 (payments for indefinite period).	
Netherlands-Austria	Jan. 17, 1947-May 16, 1947.	
Netherlands-Czechoslovakia	Oct. 20, 1946-Oct. 31, 1947 (payments for indefinite term).	
Netherlands-Yugoslavia	Aug. 1, 1946-June 30, 1947.	
Netherlands-Poland	Jan. 1-Dec. 31, 1947	Provides for exchange of goods and regulation of payments, probably including quotas and clearing procedure.
Norway-Czechoslovakia	Dec. 18, 1946-Dec. 19, 1946; supplemented April; extended to Feb. 12, 1947, and renewal under negotiation (payments for indefinite term).	
Norway-Hungary	Aug. 1, 1946-July 31, 1947.	
Norway-Yugoslavia	Aug. 30, 1946-June 30, 1947.	
Norway-Poland	Jan. 1-Dec. 31, 1947	Part payment for Polish coal is made in dollars and sterling.
Norway-Union of Soviet Socialist Republics.	Dec. 27, 1946-Dec. 26, 1948 (quotas Jan. 1-Dec. 31, 1947).	
Sweden-Czechoslovakia	July 1, 1946-June 30, 1947.	
Sweden-Hungary	Aug. 1, 1946-July 31, 1947.	
Sweden-Poland	Mar. 18, 1946-47 (credit agreement 1946-50).	Provides for part payment of Polish goods in gold or free exchange.
Sweden-Union of Soviet Socialist Republics.	Nov. 18, 1946-51 (1-year commercial agreement and 5-year credit agreement).	
Denmark-Czechoslovakia	Sept. 1, 1946-Aug. 31, 1947.	
Denmark-Hungary	July 1, 1946-June 30, 1947.	Details of financial arrangements are not reported; probably a clearing procedure.
Denmark-Poland	Oct. 1, 1946-Sept. 30, 1947 (Danish credit repayable 1948-60.)	

II. AGREEMENTS BETWEEN COUNTRIES OF WESTERN EUROPE AND SCANDINAVIA AND COUNTRIES OF EASTERN AND CENTRAL EUROPE Continued

Partners	Effective dates	Exceptions
Denmark-Union of Soviet Socialist Republics.	July 8, 1946-July 7, 1948 (quotas July 1, 1946-Dec. 31, 1947).	
Finland-Czechoslovakia	June 1, 1946-May 31, 1947	
Finland-Poland	Apr. 1, 1947-Jan. 30, 1948 (amendment to July 1946-47 agreement).	Provides for part payment of Polish coal in free exchange.
Finland-USSR	Dec. 6, 1946-Dec. 4, 1948 (quotas Jan. 1-Dec. 31, 1947).	
Switzerland-Austria	Oct. 1, 1946-Sept. 30, 1947	Authorizes trade in specified items, without establishing quantities or values of goods to be exchanged; establishes clearing procedure.
Switzerland-Czechoslovakia	May 1-Oct. 31, 1946; extended to Feb. 28, 1947.	
Switzerland-Hungary	May 15, 1946-June 30 or Sept. 30, 1947.	
Switzerland-Rumania	November 1946(?)-November 1947.	Provides for some free exchange to Rumania, secured by gold on deposit in Switzerland.
Switzerland-Yugoslavia	Oct. 15, 1946-Oct. 14, 1947 (payments for indefinite term unless denounced).	
Switzerland-Bulgaria	Jan. 1-Dec. 31, 1947.	
Switzerland-Poland	Apr. 1, 1946-Mar. 31, 1947 (Swiss credit against coal deliveries to Sept. 30, 1947).	
Total: 37.		

III. AGREEMENTS BETWEEN COUNTRIES OF WESTERN EUROPE AND SCANDINAVIA AND COUNTRIES OF THE MEDITERRANEAN AND ICELAND

(Agreement between France and Spain abrogated March 1946.)		
France-Italy	Feb. 1, 1947-Jan. 31, 1948	
France-Greece	Apr. 24, 1946-49 (payments only)	Establishes clearing procedure, but no agreement is reported for exchange of specified goods.
France-Iceland	June 15, 1946-June 30, 1947.	Specified items and quantities for Icelandic but not for French export.
(Agreement between Belgium and Spain not ratified.)		
Belgium-Portugal	Jan. 7, 1946-47(?); probably renewed.	Probably provides for exchange of specified items and quantities, clearing of payments.
Belgium-Italy	May 1, 1946-Apr. 30, 1947; supplemented October 1946.	
Netherlands-Spain	Oct. 21, 1946-Sept. 30, 1947	
Netherlands-Portugal	Mar. 1, 1946-Feb. 28, 1947; probably renewed.	
Netherlands-Italy	Aug. 30, 1946-Aug. 29, 1947	
Norway-Italy	July 20, 1946-47(?)	
Sweden-Spain	Nov. 1, 1945-June 30, 1946, supplemented January, 1946; probably renewed.	
Sweden-Italy	Dec. 1, 1946-Nov. 30, 1947	
Sweden-Iceland	Apr. 1, 1946-Mar. 31, 1947	Payments to be made in free exchange.
Denmark-Spain	Apr. 1, 1945-Mar. 31, 1946; continued(?)	
Denmark-Portugal	July 30, 1946-July 29, 1947	
Denmark-Italy	December 1946-Apr. 1, 1947.	
Finland-Iceland	Dec. 4, 1945-Dec. 31, 1946	Payments were to be made in United States dollars, with possibility of 1-year extension on payments due from Finland.
Switzerland-Spain	July 1-Dec. 31, 1945; automatically extended if not denounced.	
Total: 17.		

IV. AGREEMENTS BETWEEN COUNTRIES OF THE MEDITERRANEAN AREA AND ICELAND

Spain-Italy	Dec. 10, 1945-Dec. 31, 1946; extended to Feb. 28, 1947; renewal expected.	

V. AGREEMENTS BETWEEN COUNTRIES OF EASTERN AND CENTRAL EUROPE

Partners	Effective dates	Exceptions
Austria-Czechoslovakia	Jan. 1-June 30, 1946; probably renewed.	Authorizes barter trade of items and quantities specified; monetary payments to be eliminated insofar as possible.
Austria-Hungary	Dec. 21, 1946-Dec. 20, 1947	
Austria-Poland	Sept. 2[illegible], 1946-Mar. 31, 1947	
Czechoslovakia-Hungary	Aug. 16, 1945-Dec. 31, 1945; extended June 8-Sept. 30, 1946; probably renewed.	Authorizes barter trade in items and quantities specified. Although no financial agreement is reported, there is some indication that a clearing account is maintained in Czechoslovakia.
Czechoslovakia-Rumania	May 1-Oct. 31, 1946; extended to Apr. 30, 1947.	An excess of Czech exports is to be secured by Rumanian gold and is to be repaid partly in free exchange.
Czechoslovakia-Yugoslavia	Feb. 25, 1947-49 (current quotas established Sept. 30, 1946-Aug. 31, 1947).	
Czechoslovakia-Bulgaria	July 1, 1946-June 30, 1947	
(March 1947 treaty of friendship between Czechoslovakia and Poland; not yet commercial agreement.)		
Czechoslovakia-Union of Soviet Socialist Republics.	Apr. 12, 1946-Apr. 11, 1947	
Hungary-Rumania	Apr. 13-Dec. 31, 1946; supplemented November 1946 for deliveries extended into 1947.	Authorizes barter trade in items and quantities specified. Apparently no provision is made for centralized payments.
Hungary-Yugoslavia	Dec. 23, 1946-Dec. 22, 1947	Incomplete information; some type of clearing arrangement seems indicated.
Hungary-Poland	June 28, 1946-June 30, 1947	
Hungary-Union of Soviet Socialist Republics.	Aug. 27, 1946-Dec. 31, 1946; renewal expected.	
Rumania-Yugoslavia	Dec. 15, 1946-Dec. 31, 1946; renewal probable.	
Rumania-Bulgaria	Oct. 12, 1945-Apr. 12, 1946; prolonged to (?).	
Rumania-Poland	July 7, 1945-June 30, 1946; extended to Dec. 31, 1946; being prolonged to Mar. 31, 1947.	
Rumania-Union of Soviet Socialist Republics.	Jan. 1-Dec. 31, 1947	
(Agreement between Yugoslavia and Albania of Nov. 27, 1946, is customs union, also providing for use of uniform currency.)		
Yugoslavia-Poland	Jan. 18-June 30, 1946; probably extended to Dec. 31 and probably to be renewed.	
Yugoslavia-Union of Soviet Socialist Republics.	June 1946-47 (?)	Information incomplete; agreement probably provides for exchange of specified commodities and clearing of payments.
Bulgaria-Poland	Apr. 20, 1946-Apr. 30, 1947; new discussions expected.	
Bulgaria-Union of Soviet Socialist Republics.	May-Dec. 31, 1946; renewal being negotiated.	
Poland-Union of Soviet Socialist Republics.	Apr. 1, 1947-Mar. 31, 1948 (?); including credit agreement.	
Total: 21.		

VI. AGREEMENTS BETWEEN COUNTRIES OF EASTERN AND CENTRAL EUROPE AND COUNTRIES OF THE MEDITERRANEAN AND ICELAND

Partners	Effective dates	Exceptions
Austria-Italy	February 1946; indefinite term	Authorizes barter trade in items specified; without establishing quantities to be exchanged or a centralized method of payment.
Austria-Greece	Aug. 1, 1946-July 31, 1947	
Czechoslovakia-Iceland	Feb. 28, 1946-Feb. 27, 1947; may not be renewed.	
Hungary-Italy	Nov. 9, 1946-Nov. 8, 1947	Authorizes barter trade (grouped operations) in items and quantities specified and makes provision for clearing of payments.

VI. AGREEMENTS BETWEEN COUNTRIES OF EASTERN AND CENTRAL EUROPE AND COUNTRIES OF THE MEDITERRANEAN AND ICELAND—Continued

Partners	Effective dates	Exceptions
Yugoslavia-Italy	November 1946; financial arrangement.	Provision is made for clearing of payments, but no agreement on exchange of specified goods is reported.
Bulgaria-Italy	Signed February 1947-48 (?)	Information incomplete; agreement probably provides for exchange of specified goods and clearing of payments.
Poland-Italy	Oct. 10, 1946-Oct. 9, 1947; credit agreement 1946-50.	
Poland-Iceland	Jan. 1-Dec. 31, 1947; part payment by Poland in 1948.	
Union of Soviet Socialist Republics-Iceland.	May 27, 1946-May 26, 1947; new negotiations reported.	Payments to be made in United States dollars; balancing of trade values is not required.
Total: 9. Grand total: 113.		

O. United Kingdom Bilateral Agreements

The principal bilateral agreements in force between the United Kingdom and other foreign countries and shown in the attached list[a] may be divided in general into two classes: (1) monetary agreements and (2) agreements for the bulk purchase of food products by the United Kingdom. The former are mainly between the United Kingdom and the countries of Europe and the Near East. The latter are between the United Kingdom and the Dominions, Argentina and Denmark.

[a] This compilation does not include numerous bilateral (i. e. between the United Kingdom and another country) agreements relating merely to trade and tariffs. Among these are treaties or agreements providing for reciprocal most-favored-nation treatment; agreements providing for reciprocal tariff concessions (e. g. the Anglo-American trade agreement of Nov. 17, 1938); and the series of agreements concluded between the Dominions and the United Kingdom at Ottawa in 1932. (The latter agreements provide for preferential tariff treatment between the Dominions and the United Kingdom and form the basis of the British imperial preference system.)

Monetary Agreements

The monetary agreements, generally speaking, contain the following undertakings:

1. Subject to provisions for review, a fixed rate of exchange is established between the pound sterling and the currency of each of the other contracting governments.

2. Each of the parties undertakes to furnish its own currency against the currency of the other party, thus providing the latter with what is, in effect, a line of credit for current transactions. Net balances accumulated through the operation of this provision are limited, in the case of Czechoslovakia, to £1,000,000, and in the case of Belgium, the Netherlands, Switzerland, and Portugal to £5,000,000. When the specified amount of the net balance has been reached, further sales of currency are to be paid for in gold. In the agreements with Norway, Denmark and Sweden no specific limit is placed on the amount of currency either contracting government may purchase from the other.

3. The United Kingdom undertakes to permit the use of sterling at the disposal of residents of the other countries for payments not only in the United Kingdom but in any other part of the sterling area as well, and for transfers to other residents of the respective countries. A reciprocal undertaking is given by the other party. However, sterling available to residents of Czechoslovakia, for example, cannot be used for payments to residents of the Netherlands. The contracting governments agree that "as opportunity offers" they will attempt to make balances held by residents of the other contracting country available for payments to residents of "third countries."

4. The parties agree to cooperate to prevent transfers between their areas which "do not serve direct and useful economic or commercial purposes."

5. There is provision for review in the event that the contracting governments adhere to a general international monetary agreement.

The *Anglo-French agreement* of March 1945 of a different nature than those outlined above. It provided, among other things, for a credit of £100,000,000 to France, which was subsequently raised to £150,000,000. This credit has been exhausted and arrangements have been made in the subsequent agreements for its funding and liquidation over a period of years. The agreement drawn up in December 1946 provides that the proceeds of sterling securities sold by the French Government to the United Kingdom Government shall be made freely available for all current payments from the franc area to the sterling area. There were also provisions regarding the volume of trade between the two countries in 1946 and 1947.

The payments *agreements with Austria, Hungary, and Finland* create machinery for the resumption of trading relations with the ex-enemy countries. They provide that all payments and receipts shall for the present be in sterling.

The *agreement with Argentina* deals not only with financial matters but with the future of British-owned railways in Argentina and with meat exports to the United Kingdom. The agreement contains a provision that if in any year the balance of payments with the sterling area is unfavorable to Argentina, Argentina may dispose freely within the said area of its sterling balance for an amount equivalent to the deficit. This provision was considered to be inconsistent with section 10 (ii) of the Anglo-American Financial Agreement and the United States Government accordingly informed the United Kingdom Government that in the event it was probable that Argentina would incur a current sterling deficit, the United States would expect the United Kingdom to make an appropriate adjustment in the agreement, to avoid discrimination. This Government also asked the United Kingdom for an assurance that such a clause would not be included in future agreements relating to sterling balances. The United Kingdom Chancellor of the Exchequer in a letter to the United States Secretary of the Treasury replied that it would be his desire to avoid such discrimination, and he gave the requested assurance regarding future agreements. A copy of a press release quoting this exchange of letters is attached.

REVISION OF MONETARY AGREEMENTS TO COMPLY WITH ANGLO-AMERICAN FINANCIAL AGREEMENT

Under the Anglo-American Financial Agreement, the United Kingdom is required to make sterling from current transactions freely convertible after July 15, 1947. It will therefore be necessary for the United Kingdom to revise the existing monetary agreements described above, to comply with this requirement. Arrangements have already been made with Belgium, the Netherlands, and Portugal, whereby these countries may use sterling received in current transactions for payments to countries outside the sterling area.

BULK PURCHASE AGREEMENTS

During the war the United Kingdom entered into a number of long-term contracts with various other governments for the purchase of large quantities of particular commodities, and since the war it has renewed some of these contracts and entered into additional ones. For example, in 1944 it concluded four-year contracts with New Zealand and Australia for the purchase of meat and dairy products (the contracts for cheese and butter with New Zealand were later extended to 1950). After several years of extensive negotiations, a meat contract with Argentina was concluded in the fall of 1946. Also in 1946 the United Kingdom signed a four-year purchase agreement with Canada for wheat, and with Denmark for bacon, eggs, and butter. In general these agreements provide for the purchase by the United Kingdom of exportable surpluses or specified minimum quantities, and for specified minimum prices with provisions for periodic review.

WARTIME "DOLLAR POOL" ARRANGEMENT

British wartime financial arrangements which appeared to American exporters to be particularly onerous were the exchange control regulations adopted in the United Kingdom and certain other British and foreign countries constituting the so-called "sterling area". These regulations provided that members of the area would pool their dollar resources in London for war or essential civilian

use. There were no formal agreements between the various countries for establishment of this "dollar pool" system, but each country took parallel action by legislation or administrative order covering its particular territory. The dollar pool system will automatically disappear when sterling is made freely convertible (after July 15, 1947) under the provision of the Anglo-American agreement referred to above.

TREASURY DEPARTMENT

Washington

For automatic release 12 o'clock noon, E. S. T., Wednesday, February 5, 1947.

Press Service No. S-231

Secretary Snyder today made public the texts of the letters which he has exchanged with Mr. Hugh Dalton, Chancellor of the British Exchequer, with reference to the Anglo-Argentine Agreement of September 17, 1946, and its relation to the terms of the United States-United Kingdom Financial Agreement dated December 6, 1945.

Following is the text of Secretary Snyder's letter of October 31, 1946 to Chancellor Dalton:

Right Honorable HUGH DALTON,
Chancellor of the Exchequer,
Treasury Chambers, London, England.

DEAR MR. DALTON: In examining the agreement signed by representatives of the Governments of the United Kingdom and Argentina on September 17, 1946, I have noted that Section II (c) of Article I provides as follows:

"If in any year the balance of payments with the sterling area be unfavorable to Argentina, Argentina may furthermore dispose freely within the said area of its sterling balances for an amount equivalent to the deficit."

This provision, which appears to have the effect of making the amounts so released available for expenditure solely within the sterling area, seems to be inconsistent with Section 10 (ii) of the United States-United Kingdom Financial Agreement of December 6, 1945, which provides as follows:

"(ii) In consideration of the fact that an important purpose of the present line of credit is to promote the development of multilateral trade and facilitate its early resumption on a non-discriminatory basis, the Government of the United Kingdom agrees that any sterling balances released or otherwise available for current payments will, not later than one year after the effective date of this Agreement, unless in special cases a later date is agreed upon after consultation, be freely available for current transactions in any currency area without discrimination."

You will recall that Section 10 (ii) was considered by both of our Governments to be a very significant provision, and that it was only after considerable discussion that agreement was reached as to its formulation. It seems clear from the discussions before your Parliament and the documentation relative to the Agreement that the meaning of this section and the importance attached to it by the United States were fully appreciated by your Government. In the light of these facts, I am sure you can understand the concern of this Government upon learning that the Government of the United Kingdom had entered into a subsequent agreement containing a provision apparently in conflict with Section 10 (ii).

While I have not completed my consideration of the other provisions of the Anglo-Argentine agreement, the importance of the apparent conflict explained above impels me to invite your attention to it without delay. I hope it will be possible for you to consider this matter and communicate with me in respect to it at an early date.

Very truly yours,

/s/ JOHN W. SNYDER,
Secretary of the Treasury.

Chancellor Dalton's reply to Secretary Snyder dated December 17, 1946, is quoted below:

TREASURY CHAMBERS,
Great George Street, S. W. 1, London, England,
17th December 1946.

Mr. JOHN W. SNYDER.

MY DEAR MR. SNYDER: Your letter of October 31st about the Agreement signed between the Government of the United Kingdom and Argentina on September 17th 1946 was delivered to me personally by a member of the American Embassy in London, on November 27th.

I have read it carefully. I agree with you that Section 10 (ii) of the Financial Agreement of December 6th 1945, provides that, a year after the effective date of the Agreement, any sterling released will be freely available for current transactions in any currency area.

The Agreement with the Argentine Government carries this out in respect of current sterling as from the date of that Agreement itself. It also provides that a certain amount of the accumulated sterling, standing to the credit of the Argentine, should be released in each of the next four years, for use in any currency area.

I suggest that it is not possible to separate the terms of any agreement we can make in this difficult field from the circumstances of the negotiations, or the facts of the trade with the country with whom the agreement is concluded. The parts of the Agreement with the Argentine which relate to the treatment of sterling are for four years. The probability of a deficit between the Argentine and the Sterling Area during those four years is hypothetical. At present, the Argentine is a large net earner of sterling, by reason of the supplies we are taking from her. This position has regularly marked the position of the trade between the two countries in the past, and it is not likely to be materially changed during the next four years.

I suggest, therefore, that further consideration of this hypothetical question might be deferred, until events indicate that there is some reasonable probability of it becoming actual. In the meantime, as I have already stated, all the net sterling that the Argentine is earning will be available for current transactions in any currency area, as well as part of the accumulated balance.

I need scarcely add my personal assurance that I am very mindful of our obligation under the Financial Agreement.

Yours sincerely,

/s/ HUGH DALTON.

Secretary Snyder replied to Chancellor Dalton under date of January 27, as follows:

JAN. 27, 1947.

Right Honorable HUGH DALTON,
Chancellor of the Exchequer,
Treasury Chambers, London, England.

MY DEAR MR. DALTON: I have read with great interest and care your letter of December 17, 1946, in response to my letter of October 31, 1946, with reference to the agreement signed by the Governments of the United Kingdom and Argentina on September 17, 1946. I am pleased to have assurance of your understanding that Section 10 (ii) of the Financial Agreement of December 6, 1945, provides that one year after the effective date of the agreement any sterling balances released will be freely available for current transactions in any currency area.

May I now advert to two points in your letter which give me especial concern.

You suggest, first, that "it is not possible to separate the terms of any agreement . . . in this difficult field from the circumstances of the negotiations, or the facts of the trade with the country (concerned)." I assure you that I appreciate fully the difficulties involved in the negotiation of the sterling balance settlements. These difficulties cannot, however, be regarded as justifying commitments which contravene the terms of the Financial Agreement. Otherwise, as I am sure you will agree, the entire agreement could be rendered meaningless.

Secondly, you point out that in the past Argentina has regularly been a large net earner of sterling and that the probability of a deficit between Argentina and the sterling area during the next four years is hypothetical. Your letter suggests, accordingly, that the inclusion of Clause I B (6) in the Anglo-Argentine Agreement has little practical significance. While this may prove to be the case, this argument overlooks the fact that Clause I B (6) itself may furnish an incentive to Argentina to incur a payments deficit vis-à-vis the sterling area. Moreover, I must confess that I am unable to reconcile with the spirit of the United States-United Kingdom Agreement any commitment which under certain contingencies, even though remote, might require action at variance with the Agreement.

In the light of the not inconsiderable resistance that had to be overcome before we obtained Congressional ratification of the Financial Agreement, I think you can realize our concern over this matter and the importance we must attach to the fulfillment of the obligations undertaken therein by your Government. I am sure you will appreciate also the difficulties which must arise if future agreements involving settlements of accumulated sterling balances should contain provisions similar in intent to that of Clause I B (6) of the Anglo-Argentine Agreement. I would therefore welcome some statement from you indicating that your Government has no intention of including such a clause in future agreements.

May I also point out that if and when there is reasonable probability that Argentina will incur a current deficit with respect to the sterling area, this Government would expect the United Kingdom to make appropriate adjustments with the Argentine Government, so that no discrimination at variance with the United States-United Kingdom Financial Agreement would, in fact, arise.

I have spoken frankly because of my fear that instances of this kind, if permitted to recur, may make more difficult the maintenance and further development of those close and friendly relationships between our two countries which, I am sure, both of us wish to foster.

Sincerely yours,

(Signed) JOHN W. SNYDER,
Secretary of the Treasury.

Chancellor Dalton has replied to Secretary Snyder under date of February 4, 1947, as follows:

TREASURY CHAMBERS,
London, February 4, 1947.

The Honorable JOHN W. SNYDER,
Secretary of the Treasury,
Washington, D. C.

MY DEAR MR. SNYDER: Thank you for your letter of January 27th about our Agreement of September 17th, 1946, with Argentina. I am glad you have written frankly to me; I am replying in the same spirit, being no less anxious than yourself to maintain and develop the most close and friendly relations between our two countries.

In your letter, you ask me for an assurance that, in future agreements about sterling balances, we have no intention of including such a clause as Clause I B (6) of the Anglo-American Agreement. I am happy to give you this assurance.

I also note that, if and when there is reasonable probability that Argentina would incur a current deficit with respect to the Sterling Area, the United States Government would expect the United Kingdom to make appropriate adjustments with the Argentine Government, so that no discrimination at variance with the U. S./U. K. Financial Agreement would in fact arise. I can really assure you that it would always be our desire to avoid such discrimination, though I feel bound to say once more that I think that this is a theoretical but not a practical contingency.

Yours sincerely,

(Signed) HUGH DALTON.

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United Kingdom: Principal bilateral financial and economic agreements in force Mar. 1, 1947

I. MONETARY AND OTHER FINANCIAL AND ECONOMIC AGREEMENTS

Agreement with—	Date of signature	Nature of agreement [1]
Argentina	Sept. 17, 1946	Financial, meat purchases, railways, etc.
Austria	July 31, 1946	Payments.
Belgium	Oct. 5, 1944	Monetary.
Brazil	September 1945	Economic and commercial.
Canada	Mar. 6, 1946	Financial (extension of credit by Canada).
Czechoslovakia	Nov. 1, 1945	Monetary.
	Dec. 16, 1946	Credit.
Denmark	Dec. 6, 1945	Monetary.
Egypt	Jan. 3 and 6, 1945; extended Apr. 1 and 3, 1946.	Financial.
Finland	Aug. 2, 1945	Payments.
France	Mar. 27, 1945, Apr. 20, 1946, Dec. 3, 1946.	Financial (extension of credit to France); payments and trade.
Greece	Jan. 24, 1946	Financial and economic (extension of credit to Greece, etc.).
Hungary	August 1946	Payments.
Iran	May 26, 1942	Financial.
Iraq	May 25, 1945	Iraqi foreign exchange requirements.
Netherlands	Sept. 7, 1945; amended September 1946.	Monetary.
Norway	Nov. 9, 1945	Monetary.
Poland	June 24, 1946 (*not ratified*)	Financial.]
Portugal	Apr. 16, 1946	Monetary.
Spain	March 1940	Trade and payments.
	December 1940	Payments.
Sweden	Mar. 6, 1945	Monetary.
Switzerland	Mar. 19, 1946	Monetary.
Turkey	May 4, 1945	Trade and payments.
Union of Soviet Socialist Republics.	September 1946	Trade and payments for civilian supply.
United States of America	Dec. 6, 1945	Loan agreement.

[1] In general agreements described as monetary agreements provide for fixed rates of exchange, for the sale of currencies up to certain specified limits, and for the use of sterling at the disposal of either party freely throughout the sterling area. Payments agreements provide for the channeling of all payments through special accounts, without fixing exchange rates or providing for sales of currencies by the respective central banks.

II. AGREEMENTS OR CONTRACTS FOR THE PURCHASE OF FOOD PRODUCTS BY THE UNITED KINGDOM

Agreement with—	Duration (including contracts renewed)	Products covered
Australia	Oct. 1, 1944–Sept. 30, 1948	Meats.
	July 1, 1944–June 30, 1948	Cheese, butter.
	Jan. 1, 1946–Dec. 31, 1948	Dried fruits.
Argentina	4 years from Oct. 1, 1946	Meats.
Canada	Dec. 1, 1943, through 1948 at least	Meats.
	4 years from Aug. 1, 1946	Wheat.
	Apr. 1, 1944–Mar. 31, 1947	Cheese.
	Jan. 1, 1944–Jan. 31, 1949	Eggs.
	Apr. 1, 1946–Mar. 31, 1948	Evaporated and powdered milk.
Denmark	Aug. 1, 1946–Sept. 30, 1949	Bacon, butter, eggs.
New Zealand	Oct. 1, 1944–Sept. 30, 1948	Meats.
	Aug. 1, 1944–July 31, 1950	Cheese.
	Aug. 1, 1944–July 31, 1950	Butter.
	3 years starting with 1946–47 production.	Casein.
British East Africa	November 1940 through 1947	Sisal.

Contracts are in force for the purchase of the exportable surpluses of sugar from the following countries for four years from June 1946:

All parts of the British Empire.
Dominican Republic.
Portuguese East Africa (Portuguese requirements excepted).
Haiti.

D. BILATERAL AGREEMENTS NEGOTIATED BY LATIN AMERICAN REPUBLICS SINCE THE END OF HOSTILITIES

The attached list probably includes practically every agreement that may have been concluded by the Latin American republics since the termination of hostilities.

By and large, the agreements concluded by the Latin American republics, except those negotiated with European nations the economies of which were seriously disrupted by the war, do not contain special clearing or payments arrangements and do not have any barter type provisions. Many, however, do provide for an exchange of specified quantities of certain commodities.

The agreements covered might be divided in accordance with the nature of their general form and content into several major categories.

I. ANGLO-ARGENTINE TYPE AGREEMENT

This type is exemplified by the Argentine-United Kingdom agreement of September 17, 1946. It is very broad and comprehensive in scope, covering four major fields, namely, finance, rail transport, meat, and trade.

Of a comparable nature are the trade and financial agreements negotiated by Argentina with Chile and Bolivia. In its original form the Argentine-Chilean agreement not only ran counter to provisions in the proposed Charter for an International Trade Organization but also violated the United States-Chilean *modus vivendi* of 1938. The objectionable and discriminatory provisions of the Agreement were later removed.

II. ARGENTINE-BRAZIL TYPE AGREEMENT

The Argentine-Brazil Agreement established a pattern for a number of agreements concluded recently by both Brazil and Argentina. These would include, Brazil-Chile, Brazil-Uruguay, Brazil-Paraguay, Argentina-Spain, and Argentina-Switzerland. They might be regarded as special types long-term bulk purchase agreements. The Brazil-Argentine agreement, for example, provides for the purchase of 120,000 tons of wheat monthly from Argentina beginning January 1, 1947, and extending over a 5-year period. These agreements, however, contain a unique clause in the nature of a buyer-seller option arrangement. This clause provides that the buyer may reject any portion of the monthly quota submitted by the seller provided the buyer can secure the commodity of like quality at a lower price from some other country. Likewise, the seller is not bound to deliver the specified monthly quota if the commodity can be disposed of to other countries at a higher price.

III. THE TYPE OF AGREEMENT CONCLUDED WITH EUROPEAN COUNTRIES

The agreements concluded between Latin American countries and countries of continental Europe fall into one of two categories, or may be a combination of both:

1. The agreement follows the typical pattern of current European agreements and authorizes the exchange of specified commodities with provision for clearing of payments (Czechoslovakia-Brazil, Spain-Argentina, Switzerland-Argentina, Belgium-Argentina). The agreement may establish a payments procedure without specifying the goods to be exchanged.

2. The agreement provides for a credit by a Latin American country to a European country for purchases in the former country (Finland-Brazil, Czechoslovakia-Brazil, France-Brazil).

Generally these trade and financial agreements are of short duration and enable European countries to obtain critically needed foodstuffs and other essential materials.

IV. THE MEXICAN-CANADIAN TYPE AGREEMENT

Into this category might also be placed the agreements between Nicaragua-Canada, Mexico-Costa Rica, Ecuador-France, and Colombia-Canada. In general, these agreements provide for reciprocal most-favored-nation treatment in the matter of import duties and other charges, exchange control, customs regulations, and quantitative restrictions on imports. They are quite similar to a number of commercial agreements concluded by the United States.

Bilateral Agreements Negotiated by Latin American Countries Since the End of Hostilities

Argentina-Sweden

Signed: August 4, 1945.
Effective: August 4, 1945.
Duration: Until further notice.

Nature and Commodities Involved.—To maintain trade carried on between them during war by the so-called safe-conduct traffic. Argentina to grant, to extent possible, export licenses for shipments of flaxseed, sunflower seed, quebracho extract, casein, grain, oil cakes, and vegetable oils.

Argentina-France

Signed: October 22, 1945.
Effective: November 1, 1945.
Duration: 3 years—renewable automatically each year thereafter, unless cancelled with 6 months' notice.

Nature and Commodities Involved.—To facilitate purchase of Argentine produce by France. Argentina will provide France credits to purchase Argentine products pending time when commercial interchange will again be in balance. Settlements between two countries for all payments to be on franc bases, and balance against France may reach equivalent of 150,000,000 pesos without demand for payment by Argentina. Balances in excess of this amount are demandable in minimum quotas of 10,000,000 francs in gold, or in dollars, by mutual agreement.

Argentina-Belgium-Luxembourg

Signed: May 14, 1946.
Effective: May 24, 1946. Provisionally, subject to ratification.
Duration: 1 year—financial agreement renewable for 1-year periods by tacit consent, unless abrogated by either party with 3 months' notice. 2 years—Commercial Protocol renewable automatically for 1-year periods, unless denounced 3 months prior to date of expiration.

Nature and Commodities Involved.—Financial agreement, exchange of notes regarding release of blocked assets, and a commercial protocol.

Financial: Purpose to provide Belgium with an operating credit with which to purchase Argentine goods until such time as Belgium exports reach point sufficient to establish an approximate balance in the payments between the two countries. Argentina to allow Belgium a maximum unfavorable operating balance of payments in Belgian francs equivalent to 110,000,000 Argentine pesos. Belgian franc established as means of payment between Argentina and Belgian franc area. Payments to be effected through special Belgian franc account known as Argentine Special Account to be opened in favor of Central Bank of Argentine Republic in the National Bank of Belgium. Central Bank will make use of Belgian franc credits in meeting current Argentine payments in Belgian franc area and will not demand liquidation of balance in its favor until franc balance exceeds equivalent of 110,000,000 Argentine pesos.

Blocked Assets: Notes exchanged provided that both countries will unblock assets only upon presentation of a certificate issued by the other certifying to the absence of participation in the ownership of the assets on May 10, 1940.

Commercial Protocol: Purpose to encourage commercial interchange between contracting parties until it can be replaced by a commercial treaty. Argentina to facilitate, in greatest measure possible, the granting of export permits for certain specified commodities, principally foodstuffs and animal products, for which Belgium will grant import permits. The quantities of these goods are not stipulated.

Argentina-Peru

Signed: June 15, 1946.
Effective: June 15, 1946.
Duration: June 1, 1946, to June 1, 1947.

Nature and Commodities Involved.—Reciprocal Purchase: Argentina to supply Peru 180,000 metric tons of wheat. Peru to supply Argentina with coal, petroleum, rubber, lead, antimony, and other minerals, in quantities needed by Argentina, within the limits permitted by Peruvian production and its commitments to other Governments, and in any case, to find the best manner of meeting Argentina's needs for these products.

Argentina-Ecuador

Signed: August 5, 1946.
Effective: August 5, 1946.
Duration: 3 years.

Nature and Commodities Involved.—Reciprocal Purchase: Argentina to supply Ecuador with up to 10,000 tons of wheat of which up to 5,000 tons to be from 1945-46 crop at 85 pesos per quintal f. o. b. Buenos Aires; 50,000 head of cattle; 30,000 sheep; 10,000 pigs; 7,000 goats; 3,000 horses. Argentine Congress to be requested to exempt Ecuadoran toquilla straw hats from import duty. Ecuadoran fresh fruit to receive most-favored-nation treatment in Argentina.

Ecuador to supply Argentina, annually, up to 6,000 tons good quality rubber beginning January 1, 1947, at a price to be agreed upon for each transaction, but not less than $0.89 (U. S. currency) per kilo f. o. b. port of shipment. Ecuadoran Government to give preference to exports of natural rubber to Argentina, and will not grant for 3 years export permits for rubber to other countries until the Argentine Government has imported the quantity of 6,000 tons of natural rubber per year. Ecuador also to supply annually minimum of 200,000 tons petroleum, 10,000,000 square feet balsa wood, and 20 tons cinchona bark. Ecuadoran Congress to be requested to reduce export duty on Argentine lard from 0.60 sucre to 0.25 sucre per gross kilo. Argentine fresh fruit to receive most-favored-nation treatment in Ecuador.

Argentina-United Kingdom

Signed: September 17, 1946.
Effective: As soon as necessary steps to implement agreement are taken by both Governments.
Duration: ------

Nature and Commodities Involved.—Provides for discontinuance of blocking of sterling exchange received by Argentina in payment on transactions from date of agreement, and for partial unblocking of accumulated balances in sterling; continued purchases, at higher prices, of the Argentine meat surplus for 4 years; acquisition of British-owned railways in Argentina, and for the institution of discussions to revise Anglo-Argentine Customs Agreement of December 1, 1936.

Meat purchases: British Government to purchase Argentine exportable surplus of frozen and/or chilled beef, veal, mutton, lamb, pork, and canned meats for 4 years beginning October 1, 1946. Permits reserve for sale by Argentina to other countries, amounting to not more than 17% in first year and 22% in second year. However, British Government will purchase any amount within reserve not sold to other markets.

Argentina-South Africa

Signed: August 1946.
Effective: August 1946.
Duration: August 1946 to December 31, 1946.

Nature and Commodities Involved.—Assures the exchange before the end of 1946, of 250,000 tons of Argentine corn for 250,000 tons of South African coal.

Argentina-India

Signed: September 27, 1946.
Effective: ------
Duration: ------

Nature and Commodities Involved.—Reciprocal purchase contract: Argentina to grant export permits without delay for purchases already made by India involving 140,000 tons of corn and 25,000 tons of milling by-products. India to deliver during remainder of 1946 30,000 tons of jute and facilitate Argentine purchases of rubber, tires, and drugs for combatting locust plague. Both countries agree to expedite issuance of export permits for purchases made by other in future.

Argentina-Spain

Signed: October 30, 1946.
Effective: October 2, 1946.
Duration: October 2, 1946, to December 31, 1951.

Nature and Commodities Involved.—Provides for reciprocal purchases: Argentine credits to Spain; preference to merchant marine of both parties in transportation of merchandise involved; and various other matters.

Argentina to supply Spain with 400,000 tons minimum of wheat in 1947 and 800,000 tons minimum in 1948; and with 120,000 tons of corn in 1947 and 100,000 tons in 1948; provided that the exportable surpluses of these items exceed stated figures. Argentina also to supply Spain with stipulated quantities of a number of other agricultural products during the period 1947–51, once its international commitments on these items are fully satisfied.

Escape clause: Either party may buy in other markets if the seller is unable to meet world prices, and imports and exports, insofar as Argentina is concerned, must be made through the Argentine Institute for the Promotion of Trade.

Argentina-Brazil

Signed: November 29, 1946.
Effective: January 1, 1947.
Duration: 5 years.
Nature and Commodities Involved.—Reciprocal purchases.
Argentina to supply Brazil:
Wheat.—1,200,000 tons annually if exportable surplus is not less than 2,600,000 tons; if it is less Argentina will earmark 45% of the available surplus for Brazil. Price to be lowest applied to any third party during preceding month.
Wool.—5,000 metric tons annually.
Casein.—1,000 metric tons annually.
Brazil to supply Argentina:
Truck tires.—5,000 during 1946, 40,000 during 1947.
Automobile tires.—40,000 during 1947. (Brazil will supply in 1948–51 such truck and automobile tires as Argentine industry cannot produce.)
Crude rubber.—3,000 tons in last half of 1947, 5,000 tons annually in 1948–51.
Cotton piece goods.—60,000,000 meters in 1947, 80,000,000 meters in 1948, 100,000,000 annually in 1949–51.
And specified quantities of about a dozen other miscellaneous items.
Escape clause: For rubber, wheat, tires and textiles, purchases of the specified amounts are not obligatory and offers from competitive sources can be considered. If price quotations from other sources are lower than those specified in the agreement, the other party must be given an opportunity to meet the lower price quotations. If the other party is unable or unwilling to meet them, purchaser is free to buy the cheapest source.

Argentina-Chile

Signed: December 18, 1946.
Effective: ------
Duration: 5 years after ratification.
Nature and Commodities Involved.—Provides for limited free trade between the two countries and for the financing by Argentina of industrial development and public-works construction in Chile.
I. Trade Provisions: Reciprocal duty-free and tax-free entry for goods imported for consumption or industrialization. Such duty-free imports will be in amounts sufficient to complete requirements of either country, subject to exportable surpluses in the other country. Each Government will fix periodically the quantity of the respective products which can be imported within a fixed period of time.
Both countries will give preferential attention to the requirements of the other country, as regards each one's exportable surpluses.
Each country shall prepare a list of products originating in the other which shall be expected from the duty-free entry provision, within 180 days from the day the agreement goes into effect.
II. Financial Provisions: Argentina grants a 100,000,000 peso revolving credit to Chile, will invest 800,000,000 pesos in Chilean industries, and will grant a 300,000,000 peso loan to Chile for public-works construction. These funds to be provided by Argentina Institute for the Promotion of Trade.
An Argentine-Chilean Finance Association, to be established, will assist Chilean enterprises to increase Chile's exports to Argentina, especially of copper, iron, steel, nitrate, coal, wood, and electric power.
All materials, machinery, and implements used in public works and not produced in Chile shall be purchased from the Argentine Institute for the Promotion of Trade, except those which may be purchased more advantageously as to quality, terms or prices, in another market. (This is an escape clause.)

The agreement contains other provisions regarding *Communications, Insurance, Motion Pictures*, etc.

Argentina-Switzerland

Signed: January 20, 1947.
Effective: January 20, 1947, provisionally, pending ratification.
Duration: To December 31, 1951.

Nature and Commodities Involved.—Provides for reciprocal purchases, most favorable treatment possible with respect to duties, taxes, and administrative procedure in connection with the interchange of products, and various other matters. Applies also to Principality of Liechtenstein by virtue of Customs Union Treaty with Switzerland.

Argentina to supply Switzerland with specified quantities of wheat, corn, barley, oats, and rye 1947–1951.

In addition, once internal demand satisfied, and existing commitments to other countries met, Argentina will endeavor, whenever possible, to furnish Switzerland with unspecified amounts of meat, butter, lard, tallow, millet, birdseed, wheat flour for fodder, bran, fine bran, bristle, and castor oil.

Switzerland to extend every facility for Argentina to acquire Swiss products, especially industrial machinery and parts; textile machinery; motors, including hydraulic wind-driven, gas and internal combuston engines; steam boilers; electrical and telecommunication devices; chemicals and pharmaceutical products.

For wheat, corn, barley, oats, and rye, if Switzerland finds other sources of supply with lower prices than those quoted by the Argentine Institute for Trade Promotion, the Institute should be given an opportunity to meet these lower prices. Should it be unable to do so, Switzerland may acquire the products from another source, the quantity thus purchased being deducted from the quota specified in the Agreement.

Argentina-Uruguay

Singed: Unknown (announced February 6, 1947).
Effective: March 1, 1947.
Duration: March–December 31, 1947.

Nature and Commodities Involved.—Purchase agreement: Argentina to supply Uruguay with 170,000 tons of wheat in 1947, in monthly shipments of 17,000 tons beginning in March.

Argentina-Bolivia

Signed: March 8, 1947.
Effective: Upon ratification.
Duration: 5 years.

Nature and Commodities Involved.—Similar to Argentine-Chilean Agreement, but Argentine credits, investments, and loans are less. Provides for limited free trade and for financing by Argentina of industrial development and public-works construction in Bolivia. However, unlike Chilean Agreement, Argentine-Bolivia Agreement contains a protocol providing for exchange of specified products, including Bolivian minerals and other raw materials, and Argentine foodstuffs, wool, cotton, etc. Bolivia to supply Argentina with annual quantities of tin as available over and above other Bolivian international commitments.

Brazil-France

Signed: March 8, 1946.
Effective: March 8, 1946.
Duration: 2 years.

Nature and Commodities Involved.—Clearing and payments agreement covering all transactions. Replaces previous agreement of 1940 which could not be implemented. No commodities specified.

Brazil-United Kingdom

Signed: September 21, 1946.
Effective: ------
Duration: ------

Nature and Commodities Involved.—Provides for sending of a Brazilian purchasing commission to the United Kingdom for purpose of discussing acquisition of material for rehabilitation of Brazilian transport system and industry and utilization of Brazil's sterling balances for these purchases; participation by United Kingdom in industrial development of Brazil, by providing machinery, designs, patents and technical knowledge; suspension of import restrictions and

duty-free entry Brazilian yerba mate for United Kingdom market; termination of British navicert requirements on September 30, 1946; assurances by Brazil regarding exports of rice, corn, beans, hides, skins, and lumber, exportation of which prohibited in August 1946; formation of commission in Brazil to study requirements for new equipment of certain Brazilian public utility companies, and the possibility of acquiring such equipment in United Kingdom; negotiation of new contracts for the purchase by United Kingdom from Brazil of cotton, coffee, oranges, nuts, and meats.

As provided for in the agreement, a Brazilian Commission has been named which is shortly leaving for London to negotiate means through which Brazil's sterling balances in the United Kingdom can be utilized for the purchase of heavy industrial, transportation, and port equipment. A great part of these credits will be used in payment of purchases in that country; the rest, possibly, in some countries of the so-called sterling bloc, such as Belgium, the Netherlands, Norway and Sweden.

Brazil-Czechoslovakia

Signed: October 16, 1946.
Effective: November 15, 1946.
Duration: 2 years after expiration of which continues in effect subject to denunciation at any time by either party with 6 months' notice.

Nature and Commodities Involved.—Most-favored-nation treaty, financial arrangement providing credits to Czechoslovakia, and protocol for interchange of merchandise between two countries.

The commercial treaty provides for reciprocal most-favored-nation treatment with respect to commerce and maritime navigation.

In the financial agreement Brazil grants a $20,000,000 (U. S. currency) credit to Czechoslovakia for the purchase of Brazilian products, and the repayment of the credit utilized at the rate of 20 percent annually beginning January 1, 1952. The agreement also provides for the regulation of methods of payment between the two countries, and releases Czechoslovak blocked credits in Brazil amounting to approximately $500,000 (U. S. currency).

The protocol deals with the interchange of merchandise between the two countries and contains two lists of products specified qualities of which will be exported by each country to the other over a two-year period.

Brazil-Finland

Signed: June 27, 1946.
Effective: June 27, 1946.
Duration: ——

Nature and Commodities Involved.—Brazil to grant Finland credit of $10,000,000 U. S. dollars for the purchase of Brazilian products including coffee, hides, wool, edible oils, sugar, oil cake, cotton, corn, tobacco, iron, and steel. The agreement was signed in June 1946.

Brazil-Chile

Signed: December 27, 1946.
Effective: December 27, 1946.
Duration: 6 years. If not denounced 8 months prior to expiration date, agreement will remain in effect for an unlimited time, each party reserving right to denounce at any time thereafter for its termination 1 year later.

Nature and Commodities Involved.—Brazil to sell and Chile to buy 20,000,000 lineal meters cotton textiles annually, providing equality of prices between Brazilian textiles and those of similar quality offered by other sources. Better offers received by Chilean importers must be communicated to Brazil, which within 5 days must reply as to whether Brazilian exporters can compete. If cannot compete or no reply received, Chile can effect purchases in other market. Preferential treatment in customs, exchange or other matters existing in Chile now or in future to be extended Brazilian textiles so that they will not be less favored than similar textiles from other countries.

Brazil-Paraguay

Signed: January 16, 1947.
Effective: January 16, 1947.
Duration: 6 years. If not denounced 8 months prior to expiration, will remain in effect for indefinite period, each reserving right to denounce for termination 1 year later.

Nature and Commodities Involved.—Brazil to sell, Paraguay to buy 10,000,000 meters cotton textiles annually so long as Brazilian prices not higher than those of other countries. If Paraguayan importers received better offers, said offers must be communicated to Brazil which will advise as to whether Brazilian exporters can compete.

Chile-Belgium

Signed: March 26, 1946.
Effective: ------
Duration: ------

Nature and Commodities Involved.—Memorandum of agreement recommending projects of a provisional commercial convention, a commercial agreement, and a protocol covering payments. Proposed commercial convention provides for reciprocal general most-favored-nation customs treatment.

Commercial agreement provides for granting of all necessary facilities for increasing trade and especially intensifying commerce in certain products. Lists of Chilean and Belgian Luxembourg products were to be drawn up by a mixed commission within 90 days after the signing of the agreement.

The draft protocol provides that payments relating to the interchange of merchandise between the two countries shall be made in United States currency or in any other currency expressly agreed upon.

Honduras-Nicaragua

Signed: ------
Effective: July 8, 1946.
Duration: Further notice.

Nature and Commodities Involved.—Nicaragua grants duty-free entry rosin and turpentine; Honduras grants duty-free entry to sesame oil and cottonseed oil.

Uruguay-Belgium-Luxembourg

Signed: June 14, 1946.
Effective: June 14, 1946, provisionally, subject to ratification, Uruguay ratified, October 28, 1946.
Duration: 3 years.

Nature and Commodities Involved.—This commercial agreement prompted by the desire of the respective Governments to resume and increase the exchange of their goods with each other, provides that import and export permits and authorizations for the corresponding exchange will be issued with the greatest facility possible for certain listed products up to a specified value or quantity.

Another provision of the agreement states that in case either country establishes import or export quotas for individual countries on certain products, each is bound to give the other an equitable part of the quota. This share of the quota cannot be less than the prewar part of the trade each received in the particular commodities. Any portion of a quota established for a limited period and not filled before the period expires will be added to the quota for the following period, except when it is decided to the contrary by mutual agreement. Quotas given to a third country must include sales made by private agreement whether in the form of barter or other agreement.

Both Governments agree to cancel all provisions of previous agreements dealing with the balancing of trade between Uruguay and Belgium.

Chile-Dominican Republic

Signed: ———.
Effective: January 26, 1946.
Duration: 8 months.

Nature of Commodities Involved.—Modus vivendi providing most-favored-nation treatment by Chile to sugar imports from Dominican Republic. Other provisions not yet reported.

Chile-Peru

Signed: February 6, 1947.
Effective: Not yet ratified.
Duration: ———.

Nature and Commodities Involved.—Agreement on cultural, tourist, and commercial relations based on unratified Agreement of April 4, 1946. Commercial provisions reportedly include reciprocal tariff concessions.

Colombia-Canada

Signed: February 20, 1946.
Effective: 30 days after exchange of ratifications.
Duration: 2 years with automatic renewal for 1 year unless terminated.
Nature and Commodities Involved.—Reciprocal trade agreement providing most-favored-nation treatment; non-discriminatory procedures to govern customs regulations, control foreign exchange, quantitative quotas, etc. (Excepts Empire agreements.)

Colombia-Venezuela

Signed: October 11, 1946.
Effective: October 11, 1946.
Duration: 1 year subject to 1 year renewal.
Nature and Commodities Involved.—Embodies provisions of existing commercial agreement of March 14, 1936, as amended, with additional provisions to facilitate frontier traffic, authorizing exportation of cattle from Venezuela to Colombia, and granting tariff concession on imports of Venezuelan canned fish into Colombia.

Ecuador-France

Signed: August 1, 1946.
Effective: September 1, 1946.
Duration: 18 months.
Nature and Commodities Involved.—Provisional commercial treaty provides for reciprocal most-favored-nation treatment, and non-discriminatory administration of customs regulations, import and export taxes, etc.

Cuba-Uruguay

Signed: September 14, 1945.
Effective: ——
Duration: ——
Nature and Commodities Involved.—Cuba to import 800 tons jerked beef in exchange for 1,500 Spanish long tons of raw sugar of the 1945 crop at 3.25 cents per pound.

Mexico-Canada

Signed: February 8, 1946.
Effective: February 8, 1946 (provisionally).
Duration: 2 years.
Nature and Commodities Involved.—Provides for most-favored-nation treatment, no schedules.

Mexico-Costa Rica

Signed: February 4, 1946.
Effective: ——
Duration: ——
Nature and Commodities Involved.—Provides for most-favored-nation treatment, no schedules.

Nicaragua-Canada

Signed: December 19, 1946
Effective: December 19, 1946 (provisionally).
Duration: 1 year.
Nature and Commodities Involved.—Provides for most-favored-nation treatment, no schedules.

Nicaragua-Honduras

Signed: ——
Effective: July 8, 1946.
Duration: ——
Nature and Commodities Involved.—Exempts from Nicaraguan customs duties imports of Honduran rosin and turpentine; Honduras exempted Nicaraguan sesame and cottonseed oils from duties.

NOTE.—In March and April 1946 the Cuban Government entered into contracts with the Governments of Bolivia, Chile, Colombia, Costa Rica, Honduras, Panama, Mexico, and Venezuela to sell specified quantities of sugar. In some instances the other country in question obligated itself to sell to Cuba some

commodity which was in short supply in that country. These contracts are not listed above since they covered only one transaction and were necessitated by the shortness of supply of products of prime necessity to these countries.

E. Bilateral Agreements in the Near and Middle East

The relatively few bilateral agreements into which the Near and Middle Eastern countries have entered involve only a small percentage of the area's foreign trade. Some twelve are known to have been negotiated since the war. The likelihood of any significant increase seems to be an open question rather than a specific trend. The principal hindrance to American trade with most of the countries of the area, which at present is considerably higher than before the war, is the lack of dollar earning power and difficulty in converting their local currency and other foreign exchange into dollars.

Egypt and Iraq have financial agreements with the United Kingdom which terminate March 31, 1947, although they may be extended until July 15, 1945, after which date they would be inconsistent with the terms of the Anglo-American Financial Agreement. These agreements limit the amount of hard currency (primarily dollars) which can be purchased with sterling by the Egyptians and Iraqis. They make it possible for these countries to spend more dollars than they are currently earning, but have the effect of requiring them to spend hard currency only for essential goods not available in easy currency areas. Palestine (which has a dollar surplus), Cyprus and Aden, while having no formal agreement with the United Kingdom, are also limited in the amount of money which they can convert to hard currency. Somewhat similar situations exist in Syria and Lebanon, where dollars in excess of the amounts earned are made available by France in return for local currency and French francs.

Although before the war a considerable proportion of Turkey's trade was directed through bilateral clearing, compensation or barter agreements, the several bilateral agreements negotiated by Turkey since the war have been generally in accordance with the country's announced policy of renouncing barter trade in favor of more liberal commercial transactions. It is believed, however, that Turkish officials will follow closely developments at Geneva and may be influenced accordingly with respect to the continuation of their present policy.

Egypt also has negotiated several bilateral type agreements since the war and is considering others, particularly in order to ensure markets for cotton which has traditionally provided more than 70 percent of the country's revenue from exports. Other Near and Middle Eastern countries have been less active in negotiating bilateral agreements.

The wartime short-term barter agreements among Iraq, Syria, Lebanon, Palestine and Trans-Jordan were not continued in force. Likewise, the 1946 Syro-Lebanese protocol, establishing an exclusive arrangement on wheat, which appears to have been made because of transition period conditions and because of the historic economic link of these two neighboring states, may not be renewed.

Far Eastern Bilateral Agreements

In general, the countries in the Far East have not used barter, compensation and clearing agreements for carrying on foreign trade.

Bilateral agreements now in effect in the Near Eastern area

Turkey-Finland

Effective indefinitely from June 15, 1946.

Provides for trade in certain commodities with fixed quotas and for transfer of payments through clearing accounts. The account in Finland for the credit of Turkey is to be kept in dollars.

Turkey-Czechoslovakia

Effective from December 16, 1946, until April 1948, with provisions for extending until April 1949.

Agreement to grant each other credit within a certain limit to facilitate trade; no lists of commodities.

Turkey-France

Effective indefinitely from September 21, 1946.
Provides for trade in certain commodities with fixed quotas and for transfer of payments through clearing accounts. A modus vivendi exchanged at the same time allows for certain exceptions to most-favored-nation treatment, including treatment for products on the lists in the agreement.

Turkey-Sweden

Effective indefinitely from June 15, 1946.
Aimed at eliminating compensation trade.
Further information is confidential.

Turkey-Switzerland

Effective from October 1, 1945 for 2 years.
Establishes clearing accounts for effecting payments between the two countries.
This agreement replaces an earlier compensation agreement.

Turkey-United Kingdom

Effective indefinitely from May 21, 1945.
All payments between the two countries to be made in sterling through Turkish accounts held by the Central Bank of Turkey in the Bank of England.
Other agreements of a restrictive nature signed by Turkey with European countries before and during the war, while technically still valid, are probably not adhered to in actual practice.

Egypt-Sweden

Effective for one year ending June 30, 1947.
Foresees the issuance of import and export permits within the limits of the quantities of goods on which the two countries have agreed.

Egypt-Czechoslovakia

Effective for one year from January 20, 1947.
Provides for trade in certain commodities (a minimum of £E600,000 of cotton to be sent from Egypt to Czechoslovakia) and for a loan of £E1,000,000 to Czechoslovakia for the purchase of cotton.

Egypt-United Kingdom

Effective until March 31, 1947 (will probably be extended to July 15, 1947).
The equivalent of £27,788,500 per year allotted to Egypt in hard currencies.
Certain target quotas set for types of goods that currency may be used for.
Provides that Egypt shall maintain an export-import licensing system for trade with the hard currency area.

Syria-Lebanon

Believed still in effect, date of signing approximately June 1946, date of expiration indefinite.
Established a joint Syro-Lebanese organization for the purchase of Syrian wheat to be sold to Lebanon. Syria agrees not to sell wheat to any other country until Lebanon has purchased all she wants, and Lebanon agrees not to buy from any other country unless Syria is unable to supply her. No payment provisions are necessary since the two countries have a common currency.

Iraq-United Kingdom

Effective until March 31, 1947 (will probably be extended to July 15, 1947).
The equivalent of $14,000,000 per year allotted to Iraq in hard currencies.
Certain target quotas set for types of goods that currency may be used for.
Provides that Iraq shall maintain an export-import licensing system for trade with the hard-currency area.

Iran-U. S. S. R.

Confidential wartime clearing arrangement.
Agreement technically expired with cessation of hostilities but terms providing for payment have never been fulfilled as far as is known.

Palestine-Hungary

Effective early in 1947, duration unknown.
Provides for the export of certain goods from Hungary value at £s 1,000,000 in exchange for import of certain goods from Palestine valued at £s 400,000;

the remaining £s 600,000 to be used to purchase goods in any of the sterling area countries.

(Only source is Budapest radio broadcast.)

[Enclosure No. 1 to Despatch No. 513, dated January 17, 1947, from Charles F. Baldwin, Commercial Attache, American Embassy, Oslo, Norway, on the subject: Text of Commercial Agreement Between Norway and the Soviet Union]

F. SAMPLE AGREEMENTS

1. AGREEMENT ON PRODUCE EXCHANGE AND PAYMENTS BETWEEN NORWAY AND THE SOVIET UNION

In order to ease the exchange of products and arrange payments between Norway and the Soviet Union, the Royal Norwegian Government and the Government of the Soviet Union have signed the following agreement:

ARTICLE 1. Deliveries of products from Norway to the Soviet Union and from the Soviet Union to Norway are to be made in accordance with lists, stating the quantity or value of each product to be delivered. The two countries will agree on such lists for a certain period of time. The lists will be made out in separate Protocols.

Both Governments obligate themselves to take all measures possible for a correct and accurate realization of the deliveries of the products stated in the mentioned Protocols.

ARTICLE 2. Norwegian legal and physical persons on the one hand and the organization of Soviet foreign trade on the other will between them make contracts for deliveries of products in accordance with the Protocols mentioned under Article 1 in this agreement.

ARTICLE 3. Between Norwegian legal and physical persons on the one hand and the organization of Soviet foreign trade on the other there may, under observance of the rules regarding export and import in force in both countries, be made transactions for deliveries of products in addition to the Protocols mentioned under Article 1, and also compensation transactions.

ARTICLE 4. If nothing else is decided in the delivery contracts between purchasers and sellers, deliveries of products according to this agreement will take place f. o. b. Norwegian and Soviet harbor respectively.

ARTICLE 5. This agreement includes:

1. Payments for products delivered from Norway to the Soviet Union and from the Soviet Union to Norway according to transactions mentioned under Articles 1 and 2;

2. Payment for expenses which are results of the produce exchange between the two countries in accordance with transactions mentioned under Articles 2 and 3, including expenses for transportation and insurance of products and payment of taxes and commissions;

3. Payment of shipment freights and expenses for chartering in connection with the produce exchanges between the two countries; and also the expenses of Norwegian and Soviet Russian ships in the harbors of the two countries, including disbursements and expenses for repair;

4. Payment of shipment freights and expenses in connection with the Soviet organizations' shartering of Norwegian ships for shipment of products in addition to the produce exchange between the two countries when such agreement is made between the Soviet chartering agent and the Norwegian shipowners;

5. Payment of expenses for the maintenance of commercial representation of the Soviet Union in Norway;

6. Payments for technical assistance;

7. Other payments on which agreements might be made between the Bank of Norway and the State Bank of the Soviet Union.

ARTICLE 6. In Norway all payments in accordance with this agreement are to be made through the Bank of Norway and in the Soviet Union through the State Bank of the Soviet Union.

The above-mentioned banks will, for this purpose, establish particular accounts in Norwegian kroner free of interest, and are to notify each other immediately as to payments on these accounts.

As soon as such information is received the banks are to pay the institutions or persons in question regardless of the deposits on the mentioned accounts.

ARTICLE 7. If any of the payments mentioned under Article 5 of this agreement is given in other currency than Norwegian kroner or rubles, these payments

are to be recalculated into Norwegian kroner according to the rate of exchange in Oslo on the day of the payment.

Amounts given in rubles will be recalculated into Norwegian kroner according to the rate of exchange of the State Bank of the Soviet Union on the day of the payment.

ARTICLE 8. The Bank of Norway and the State Bank of the Soviet Union may at any time demand payment of a balance in their favor on the accounts mentioned under Article 6. In that case the debtor bank may pay this balance either in gold or by transferring U. S. dollars, or, according to agreement between the banks, in other currency to the bank which the creditor bank appoints.

Both banks will, however, abstain from demanding transference if the balance on the mentioned accounts does not exceed one million (1,000,000) Norwegian kroner. If the balance exceeds this amount, transference can only be demanded for the amount which exceeds this amount, transference can only be demanded for the amount which exceeds one million (1,000,000) Norwegian kroner. In that case demands for transference can not be made for amounts under five hundred thousand (500,000) Norwegian kroner.

The recalculation of Norwegian kroner into gold, U. S. dollars or other currency will in these cases be made according to the rate of exchange which is more favorable for the debtor bank, but not lower than the average rate of the exchange of the Bank of Norway on the day of the payment.

ARTICLE 9. The Bank of Norway and the State Bank of the Soviet Union between them will decide the technical arrangement of payments between the two countries according to this agreement.

ARTICLE 10. Norwegian legal and physical persons and the Soviet foreign trade organizations may with the consent in each individual case of the governmental bodies concerned in both countries, make contracts for additional deliveries of products outside the framework of the Protocols which are made out according to Article 1 of this agreement; these products will be paid for in the currency agreed upon in the contracts. In such cases payment will be made according to the terms provided in these contracts.

ARTICLE 11. The Norwegian Government and the Government of the Soviet Union will appoint representatives who are to meet to the extent necessary, in Oslo and in Moscow in turn, to discuss how this agreement is being fulfilled, and the mutual exchange of products, and to work out proper suggestions.

ARTICLE 12. After the end of this agreement the Bank of Norway and the State Bank of the Soviet Union will continue to receive transferences to the accounts mentioned under Article 6, and from these transferences make payments, according to the provisions of this agreement, for transactions which were concluded while the agreement was valid.

If, after the fulfillment of the payments mentioned in this agreement, there is a debit balance for one of the parties on the accounts mentioned under Article 6, this party is to cover the balance, as it chooses, either—within 3 months reckoned from the day on which the final debit balance was fixed—through deliveries of products on which the parties might agree, or by gold, or through transference of U. S. dollars, or according to agreement between the parties, through transference of other currency as mentioned under Article 8.

ARTICLE 13. This agreement will be effective as of the day on which it is signed and will be in force for a period of two years, but if one of the parties has not, within 3 months before the validity expires, expressed the desire to discontinue the agreement, it will be in force for one more year, and so forth for the future.

Made out in Moscow, December, 1946, in two original copies, one in Norwegian and one in Russian, both texts being of equal validity.

PROTOCOL

In accordance with Article 1 in the agreement on produce exchange and payments between Norway and the Soviet Union signed today, the undersigned representatives who have been authorized, have agreed on the following:

1. During the period January 1 to December 31, 1947, inclusive, the deliveries of products from Norway to the Soviet Union and from the Soviet Union to

Norway, as provided under Articles 1 and 2 of the mentioned agreement, will be made in accordance with lists 1 and 2 enclosed with this protocol, and on the terms fixed in the above-mentioned agreement on produce exchange and payments.

2. Both Governments should try to extend the mutual produce exchange beyond the quantities fixed in the lists enclosed with this protocol. Accordingly, on mutual agreement between both Governments, the amounts of products included in lists 1 and 2 may be increased. In the same way products which were previously not included, may be added to the lists.

Made out in Moscow, December 27, 1946, in two original copies, one in Norwegian and one in Russian, both texts being of equal validity.

For the Royal Norwegian Government on credentials:
E. KROGH-HANSEN.
For the Government of the Soviet Union on credentials:
A. KRUTIKOV.

LIST I *of deliveries of products from the Soviet Union to Norway during the period January 1 to December 31, inclusive, 1947*

Position number	Product	Quantity or amount
1.	Rye	20,000 tons.
2.	Oats	20,000 tons.
3.	Barley	20,000 tons.
4.	Coal bricks	100,000 tons.
5.	Pit coal	100,000 tons.
6.	Coke	40,000 tons.
7.	Anthracite	20,000 tons.
8.	Apatite-concentrate	40,000 tons.
9.	Rock salt	80,000 tons.
10.	Manganese ore	10,000 tons.
11.	Chrome ore	15,000 tons.
12.	China clay	1,000 tons.
13.	Asbestos	P. M.*
14.	Bauxite	P. M.*
15.	Electrolytic copper	1,000 tons.
16.	Lead	1,000 tons.
17.	Antimony	20 tons.
18.	Silver	5 tons.
19.	Platinum	35 kilograms.
20.	Mineral oil products	5,000 tons.
21.	Paraffin wax	200 tons.
22.	Pitch	400 tons.
23.	Sawn goods	4,000 standards.
24.	Planks of oak wood, ash and elm.	3,000 cu. meters.
25.	Beech barrels	50,000 sets.
26.	Veneer of oak and other wood.	400 cu. meters.
27.	Sodium sulphate	2,000 tons.
28.	Barium sulphate	500 tons.
29.	Lithopone	200 tons.
30.	Raisins	500 tons.
31.	Apricots, dried	500 tons.
32.	Almonds	P. M.*
33.	Strawberry pulp with sugar.	P. M.*
34.	Raw materials for the brush - making industry.	500,000 Norw. kroner.
35.	Medicinal herbs	200,000 Norw. kroner.
36.	Sundry products	

LIST II *of deliveries of products from Norway to the Soviet Union during the period January 1 to December 31, inclusive, 1947*

Position number	Product	Quantity or amount
1.	Aluminum	P. M.*
2.	Whale fats, hardened	10,000 tons.
3.	Steam cod-liver oil for medicinal use.	1,500 tons.
4.	Iceland herrings, salt	3,000 tons.
5.	Fat herring, salt	2,500 tons.
6.	Big herring, salt	4,000 tons.
7.	Spring herring, salt	3,000 tons.
8.	Frozen fish (cod)	2,000 tons.
9.	Frozen winter herring.	2,500 tons.
10.	Pyrites	50,000 tons.
11.	Molybdenum concentrates.	300 tons.
12.	Carborundum, crystalline and for grinding materials.	1,200,000 Norw. kroner.
13.	Sundry products	

*For these products, the possibilities for delivery and purchase will be further examined.

[Enclosure no. 1 to Despatch no. —, dated February 6, 1947 from the American Embassy Oslo, Norway]

2. Trade Agreement Between Norway and the Netherlands

The Royal Norwegian Government and the Royal Netherlands Government, desiring to encourage and further develop the trade and commerce between Norway and the Netherlands, have agreed as follows:

ARTICLE 1.

The Royal Norwegian Government undertake to allow the export and the Royal Netherlands Government undertake to allow the import to the Netherlands of the goods enumerated in the annexed list A, up to the quantities and values stated therein.

ARTICLE 2.

The Royal Netherlands Government undertake to allow the export and the Royal Norwegian Government undertake to allow the import to Norway of the goods enumerated in the annexed list B, up to the quantities or values stated therein.

ARTICLE 3.

The two Governments will facilitate as far as possible export and import beyond the quantities or values fixed for the various items in the aforementioned lists A and B, as well as the export and import of goods not appearing in these lists.

ARTICLE 4.

The goods to be exchanged between the two countries in the first year after the conclusion of this Agreement, have been enumerated in lists A and B. A joint commission consisting of representatives of the two Governments will survey the application of this Agreement, prepare the lists prescribed in articles 1 and 2 and—when necessary—proceed to their revision. The commission will make recommendations with a view to facilitating the exchange of goods as well as to furthering the economic and financial relations. The commission will be convened at the request of one of the two Governments.

ARTICLE 5.

The Kingdom of the Netherlands includes the territories in Europe, The Netherlands Indies, Suriname and Curaçao.

ARTICLE 6.

The present Agreement shall come into force on the 1st January 1947 and shall remain in force for 12 months. If neither party gives notice of its intention to terminate the Agreement three months before the end of this period, the Agreement will continue in force until three months after one or other of the contracting parties shall have given such notice.

In witness whereof the undersigned, duly authorized to that effect, have signed the present Agreement.

Done in duplicate in Oslo in the English language, this 28th day of January 1947.

For the Royal Norwegian Government:
(s.) Halvard M. Lange.

For the Royal Netherlands Government:
(s.) G. P. Luden.

List A.—*Exports to the Netherlands from Norway*

	Quantity	Value 1.000 Nors. Crowns
Fresh fish, fresh and/or salted herrings		2.500
Stockfish and salted fish		2.500
Shellfish		1.000
Canned fish products		50
Codmeal [1]	1.000 tons	
Medicinal cod liver oil (including cod liver oil in bottles)	750 tons	
Cod liver oil and vitamine A oil for veterinary and other purposes		800
Cod liver oil and other oils for industrial purposes	200 tons	
Hardened fat and/or edible fish oils	2.000 tons	
Carbide	P. M.	
Auxiliary materials for tanning and textile industries		100
Sulphite lye and extract of sulphite cellulose		250
Sea-weed products		150
Argon and inert gases		20
Nitrogenous fertilizers [2]	7.100 tons N.	
"Juffers" and spars	800 stds.	
Pitprops	25.000 m.	
Wood wool	P. M.	
Wood flour		110
Hampoles		25
Wallboards	150.000 m [2]	
Wooden brush backs and handles	P. M.	
Mechanical wood pulp	50.000 tons	
Chemical wood pulp for production of paper	9.000 tons	
Chemical wood pulp for production of rayon	9.500 tons	
Paper, pasteboard and cardboard	11.000 tons	
Furs (Further increases will be considered most favourably by the Netherlands Government)		2.000
Hides and skins	P. M.	
Rubber boots for fishermen	P. M.	
Labradorite, curb- and quaystone, polished stones, etc.		2.800
Stones for dike and railway use (rubble) [1]	200.000 tons	
Feldspar [1]	3.000 tons	
Talc and micro-minerals		1.000
Ground quartz	P. M.	
Graphite	300 tons	
Sulphur	500 tons	
Grinding and polishing materials		250
Pyrites	30.000 tons	
Vanadium pig-iron	350 tons	
Ferro-silicon	2.050 tons	
Ferro chrome	50 tons	
Ferro-manganese	250 tons	
Special steel		1.700
Wrought-iron objects		200
Timber connectors		50
Machinery, tools and various finished products of iron and steel		1.000
Fish hooks		200
Aquavit	2.000 liters	
Casings	P. M.	
Fish glue		200
Miscellaneous [2]		7.500

[1] Further deliveries according to possibilities.
[2] See covering letter.

List B.—*Exports to Norway from the Netherlands*

	Quantity	Value 1.000 Norw. Crowns
Cheese	P. M.	
Fresh vegetables, onions and peas		2.500
Fresh fruits	100 tons	
Poppy, caraway and mustard seeds	90 tons	
Linseeds	10 tons	
Cocoa butter and powder, chocolate	P. M.	
Coffee	1.000 tons	
Cigars [1]	2.500.000 pieces	
Spirits and liqueurs, arrack		300
Carbonate of potash	40 tons	
Essences, essential and floral oils, natural and synthetic, synthetic aromatics and compositions thereof		2.800

[1] It is agreed that one cigar equals two cigarillos.

LIST B.—*Exports to Norway from the Netherlands*—Continued

	Quantity	Value 1.000 Nors. Crowns
Paints, lacquers, enamel paint, varnishes, etc.	400 tons	
Copals	100 tons	
Litophone	100 tons	
Glycerine	50 tons	
Stearine	P. M.	
Sodium perborate	100 tons	
Starches, including dextrine, etc.	600 tons	
Refining coal	80 tons	
Gelatine	10 tons	
Linoleum cement	P. M.	
Linoleum (150.000 m²) and Linoleum substitutes (450.000 m²)	600.00. m²	
Superphosphates (subject to allocation)[1]	36.000 tons	
Flax	50 tons	
Rayon yard	200 tons	
Kapok	10 tons	
Rayon tissues		2.200
Woolen materials (including furniture cover)		6.000
Cotton fabrics, including linen		4.000
Carpets of wool, flax and cocos		2.000
Canvas for awnings	P. M.	
Cloth for roller-blinds	P. M.	
Ready-made clothes for ladies and children, rain-coats also for men		4.500
Various textile products		2.000
Leather shoes, especially for children	P. M.	
Creosote oil	1.500 tons	
Benzol	400 tons	
Vacuum salt	10.000 tons	
Magnesite sinter	500 tons	
Magnesium chloride	100 tons	
Glass sand and moulding sand	1.500 tons	
Roof tiles (glazed)[2]	100.000 pieces	
Floor and wall tiles, not for industrial purposes		250
Sanitary faience[3]		250
Enamel paste, glaze paste		300
Demijohns	5.000 pieces	
Articles for graphic use	P. M.	
Cast-iron pipes	3.000 tons	
Wrought-iron pipes	300 tons	
Iron drums	P. M.	
Various iron, steel and metal products, including chains, anchors and equipment for trawlers.		1.200
Bath-tubs	1.000 pieces	
Cast-iron sinks	5.000 pieces	
Scales		250
Various machinery, apparatuses and spare parts		2.000
Special incandescent lamps[4]		2.000
Parts and apparatuses for manufacture of incandescent lamps		1.700
Radio receiver tubes[4]		3.000
Radio transmitting valves and tubes		300
Radio receiving sets and radio receiver parts for manufacture of receivers[4]		10.000
Electrical installation material		300
Various electrical machinery, apparatuses, appliances, and products[4]		9.000
Power and telephone lead cables	P. M.	
Casings	P. M.	
Flower bulbs[5]		2.200
Gladiolus and other tubers[5]		150
Boskoop products[6]		400
Small plants and cuttings for green-houses		50
Herb, flower and vegetable seeds		200
Willow hoops		300
Musical instruments		100
Pharmaceutical products[6]		500
Various chemical products, incuding some products of mineral oil		1.500
Processing for Norwegian account:[4]		
Refining of raw sugar.		
Preparing and tanning of skins and leather.		
Binding of seines and fishing nets;		
Refining of lead.		
Miscellaneous[4]		7.500

[1] Further deliveries according to possibilities.
[2] Whereof 6.000 tons for the fertilizer year 1946/47 and 30.000 tons for 1947/48.
[3] See covering letter.
[4] If there is a further demand, import-licences will be granted up to the amount of Kr. 2.500.000.
[5] If there is a further demand, import-licences will be granted on top of the quota.

[Translation]

3. Credit Agreement Between Sweden and the U. S. S. R.

With the object of further extending the Trade and Payment Agreement of September 7, 1940 between Sweden and the U. S. S. R. renewed this day, the Swedish Government and that of the U. S. S. R. have concluded the following credit agreement:

ARTICLE 1

The Swedish Government grants the Government of the U. S. S. R a credit of one billion Swedish kronor (1,000,000,000) to be utilized in accordance with the attached list for payment of equipment and other goods which the Trade Commission and economic organizations of the U. S. S. R. will purchase in Sweden, also for payments in Sweden in connection with the delivery to the U. S. S. R. of the above-mentioned equipment and goods, with the installation of the equipment and also with the granting of technical assistance.

Changes in the above-mentioned list can be made after agreement between the parties.

ARTICLE 2

The credit is to be utilized for the objects stated in Article 1 of this agreement during a period of five years, calculated from and including the day when the agreement in question comes into operation, and as far as possible, the same amount—200 million Swedish kronor—is to be used each year.

The amount of the credit not used during any one year may be carried over to the following year provided that the total credit utilized in any one year does not exceed 300 million Swedish kronor.

ARTICLE 3

The Swedish Government will take, within the framework of its jurisdiction, all measures necessary for the fulfilment of the deliveries to the U. S. S. R. proposed in this agreement.

The Trade Commission appointed under Article 5 of the Trade and payment agreement of September 7, 1940 shall at their meetings examine results and developments during the fulfillment of the aforementioned agreement with due regard to the form of the mutual exchange of goods, and work out the necessary recommendations.

ARTICLE 4

The U. S. S. R. Trade Commission in Sweden and the Soviet economic organizations have the right freely to select suppliers when placing orders and making purchases set forth in this agreement.

The general delivery and payment terms shall be normal.

ARTICLE 5

The credit shall be made available by the opening at Sveriges Riksbank of a special non-interest bearing account for the U. S. S. R. Trade Commission in Sweden.

The Trade Commission shall give instructions for payments from the said account by means of written payment orders which shall include the information necessary for carrying out the payments.

The said payment orders shall be made immediately after it has been established that they refer to payments in accordance with the stipulations of Articles 1 and 2 of this agreement.

ARTICLE 6

At the expiration of every calendar year, the U. S. S. R. Trade Commission in Sweden shall give Sveriges Riksbank a certificate of indebtedness made out in accordance with Article 7 of this agreement, for the amount of the debit balance on the account specified in Article 5 of the agreement, but rounded off downwards to a multiple of one hundred thousand (100,000) Swedish kronor.

Immediately after receiving such a certificate of indebtedness Sveriges Riksbank shall reduce the debit balance on the aforementioned account by crediting the latter with the amount of the certificate of indebtedness.

ARTICLE 7

The certificates of indebtedness mentioned in Article 6 of this agreement shall be made out by the U. S. S. R. Trade Commission in Sweden to Sveriges Riksbank or order.

They shall be made out in Swedish kronor and have a nominal value of 100,000 Swedish kronor or multiples of that amount.

The certificates of indebtedness shall be drawn up in accordance with the formula attached to this agreement.

Each certificate of indebtedness shall fall due for payment 15 years after the day of its execution.

Three percent yearly interest shall be paid on every certificate of indebtedness. Interest shall, however, not be paid during a period of three years from the day when the certificate was executed. Interest shall be paid half-yearly. Should the certificates be subject to stamp duty or other charges in Sweden, such charges shall be paid by Sveriges Riksbank.

ARTICLE 8

The amount necessary for the redemption of the certificates of indebtedness and payment of interest for the same shall be paid by the U. S. S. R. Trade Commission in Sweden to Sveriges Riksbank on due day either in Swedish kronor acquired through the sale of goods in Sweden, or in gold, or in free convertible foreign currency.

The transfer to Swedish kronor of gold and free convertible foreign currency shall be made according to the most favorable rate of exchange though at a rate not lower than Sveriges Riksbank's official buying rate for gold and foreign currency at the date of payment.

The U. S. S. R. Trade Commission in Sweden shall have the right to redeem the certificates of indebtedness before their due date. In such cases, interest shall be calculated to and including the day of redemption of these certificates.

ARTICLE 9

The Swedish Government undertakes to grant permission without delay, if such is necessary on account of Swedish laws or regulations, for the import of such Soviet goods of which Sweden has need and which Sweden imports, to an amount not less than that required for the repayment of the credit specified in Article 1 of this agreement and also for the interest on the same.

ARTICLE 10

The agreement in question shall be ratified according to the conditions prescribed in the respective constitutions of Sweden and the U. S. S. R. It shall operate from the day when the ratification documents are exchanged, and this shall take place in Stockholm as soon as possible.

Done in Moscow October 7, 1946 in two original copies each in the Swedish and Russian languages, both of which texts shall have equal validity.

On behalf of the Swedish Government:
(signed) ROLF SOHLMAN.
On behalf of the U. S. S. R. Government:
(signed) P. KUMYKIN,
For the Ministry for Foreign Affairs of the U. S. S. R.

ANNEX TO THE CREDIT AGREEMENT BETWEEN SWEDEN AND THE U. S. S. R. OF OCTOBER 7, 1946

Formula

Certificate of Indebtedness No. 0000
Swedish kronor .....
due date ..... 19..
drawn on the U. S. S. R.'s Trade Commission in Sweden in accordance with the credit agreement between the U. S. S. R. and Sweden of October 7, 1946.

The U. S. S. R. Trade Commission in Sweden pays to Sveriges Riksbank or order ..... 19.. (000,000) Swedish kronor plus 3 percent yearly interest on the amount named from the day three years after the issue

of this certificate of indebtedness to and including the day of its redemption.

Interest is to be paid half-yearly. The first payment of interest shall be made three years and six months after this day.

The payment of the nominal amount of this certificate of indebtedness and interest shall take place in Sveriges Riksbank, Stockholm.

U. S. S. R. TRADE COMMISSION IN SWEDEN.

Stockholm, _____ 19__.

List of Swedish deliveries and other items which shall be paid by means of the credit which the Swedish Government has granted the Government of the U. S. S. R.

No.	Articles et cetera	Quantity or amount
1.	Water turbines complete with generators and electrical equipment, also separate generators.	265,000 Kw.
2.	Complete steam power stations	250,000 Kw.
3.	Various electrical equipment	47,000,000 Sw. kr.
4.	Equipment for the mechanization of the excavation and concentration of ore	200,000,000 Sw. kr.
5.	Equipment and instruments for geological investigation	42,500,000 Sw. kr.
6.	Equipment for the mechanization of peat excavation (in case such deliveries are possible)	23,000,000 Sw. kr.
7.	Equipment for the mechanization of forestry and timber processes	17,000,000 Sw. kr.
8.	Equipment for house building and manufacture of building material	90,000,000 Sw. kr.
9.	Equipment and apparatus for the chemical industry	22,500,000 Sw. kr.
10.	Steam locomotives of the "Dekapod" type	300.
11.	Fishing trawlers	45.
12.	Auxiliary-engined cargo schooners	80.
13.	Laboratory equipment	10,000,000 Sw. kr.
14.	Welding machinery	5,000,000 Sw. kr.
15.	Feeding pumps	2,500,000 Sw. kr.
16.	High pressure fittings and mountings	10,000,000 Sw. kr.
17.	Payments for orders placed before June 1, 1946 for goods not foreseen in the specifications for deliveries from Sweden to the U. S. S. R. according to the agreement concerning trade and payments. Deliveries of such goods ordered from and including June 1, 1946 are to be deducted from the quantities under their respective numbers in the list in question.	
18.	Redemption before due date of the remaining capital debt according to the credit agreement of September 7, 1940.	
19.	Payment for certain Swedish economic claims against U. S. S. R.	
20.	Deliveries according to orders as to which additional agreements will be made between the representatives appointed according to Article 5 of the Trade and Payments Agreement of September 7, 1940, also various payments (freight and insurance in connection with deliveries which are to be paid from the credit, installation of equipment, technical assistance, et cetera).	
	Total	1,000,000,000 Sw. Kr.

NOTE.—It has been agreed that deliveries under numbers 1, 2, 3, 4, 7, and 11 may be made partly during the sixth year of the validity of the credit agreement of October 7, 1946, and, notwithstanding the stipulation in Article 2, paragraph 1, of the same agreement, may be paid out of the credit.

PROTOCOL TO THE CREDIT AGREEMENT BETWEEN SWEDEN AND THE U. S. S. R. OF OCTOBER 7, 1946

In connection with the signature this day of the Credit Agreement between Sweden and the U. S. S. R. the parties have agreed as follows:

1. That portion of the credit granted to the U. S. S. R. by Sweden in accordance with the Credit Agreement of September 7, 1940 still outstanding on the day when the aforementioned Protocol comes into force, shall be paid from the credit granted by Sweden to the U. S. S. R. in accordance with the Credit Agreement signed this day.

The above-mentioned sum shall be paid by the presentation to the Sveriges Riksbank by the Trade Commission of the U. S. S. R. in Sweden of a certificate of indebtedness issued in accordance with Article 7 of the Credit Agreement signed this day; such certificate shall be dated the same day as that on which the aforementioned Protocol comes into force, and shall be for an amount equal to the total of the aforementioned unredeemed certificates arising out of the Credit Agreement of September 7, 1940,

less the amount of the outstanding credit balance as at the same day of the account mentioned in Article 5 of the same Credit Agreement.

At the same time the Trade Commission of the U. S. S. R. in Sweden shall pay to the Sveriges Riksbank accrued interest on the unredeemed certificates of indebtedness arising out of the Credit Agreement of September 7, 1940. Thereupon the Sveriges Riksbank shall return the certificates of indebtedness in question to the Trade Commission of the U. S. S. R. in Sweden and close the account in question.

2. As from the day that the aforementioned Protocol comes into force, the Credit Agreement of September 7, 1940 between Sweden and the U. S. S. R. and the Protocol to Articles 2 and 7 of the aforementioned Credit Agreement shall cease to be valid.

The foregoing Protocol shall constitute an integral part of the Credit Agreement signed this day between Sweden and the U. S. S. R.

Done in Moscow October 7, 1946, in two originals, each in the Swedish and the Russian languages, both of which texts shall have equal validity.

On behalf of the Swedish Government:
(signed) ROLF SOHLMAN.
On behalf of the U. S. S. R. Government:
(signed) P. KUMYKIN,
For the Ministry for Foreign Affairs of the U. S. S. R.

PROTOCOL TO THE AGREEMENT OF SEPTEMBER 7, 1940 CONCERNING THE EXCHANGE OF COMMODITIES AND PAYMENTS BETWEEN SWEDEN AND THE UNION OF SOCIALIST SOVIET REPUBLICS

With a view to facilitating the exchange of commodities and payments between Sweden and the Union of Socialist Soviet Republics, the Swedish Government and the Government of the Union of Socialist Soviet Republics have made the following agreement:

1. The Agreement of September 7, 1940 concerning the exchange of commodities and payments between Sweden and the Union of Socialist Soviet Republics shall, with the modifications stated in the protocol, remain valid for a period of five years, reckoned from the day on which this protocol becomes valid, and, unless terminated by either party six months prior to the end of the current period, shall be extended each time for the period of one year.

2. For the period of validity of the above-mentioned agreement, which is reckoned from the day on which this protocol becomes effective through December 31, 1947, quotas have been fixed for the exchange of commodities between Sweden and the Union of Socialist Soviet Republics. These quotas appear in Lists I and II, annexed to this protocol.

3. The Clearing Board in Stockholm, referred to in Articles 7, 8, 9, 11, and 12 of the above-mentioned agreement, may be replaced by the Swedish Riksbank, if the Swedish Government so requests.

4. With a view to facilitating the transportation of goods between Sweden and the Union of Socialist Soviet Republics and to securing reasonable participation of the ships of either party in these transports, the competent Swedish and Soviet authorities will grant the necessary permits to and, in general, promote Swedish and Soviet line traffic and tramp traffic between Swedish and Soviet ports.

The Swedish Government will, as far as possible, facilitate the chartering of Swedish ships by the Trade Commision of the Union of Socialist Soviet Republics in Sweden and Soviet economic organizations, and, wherever such chartering requires authorization under Swedish regulations, give consideration to applications for such permit in a spirit of the utmost good will.

The provisions of the two preceding paragraphs supersede from the day on which this protocol goes into effect the previous agreement which the parties had concluded with respect to the chartering of Swedish ships by Soviet organisations and with respect to Swedish line and tramp traffic between Swedish and Soviet ports.

5. Swedish and Soviet deliveries provided for in the Agreement of September 7, 1940 concerning the exchange of commodities and payments may, upon agreement between representatives appointed under Article 5 of the aforementioned agreement, include goods originating in countries other than Sweden or the Soviet Union and which have not undergone processing in Sweden or in the Union of Socialist Soviet Republics.

6. The quota lists for the exchange of commodities between Sweden and the Union of Socialist Soviet Republics, which were established for the first twelve-month period of the validity of the Agreement of September 7, 1940 concerning the exchange of commodities and payments, and also the supplementary agreements between the parties signed on September 7, 1940, which referred to the execution of the exchange of commodities during the aforesaid twelve-month period, shall become invalid from the day on which this protocol goes into effect.

7. In connection with the signing on this day of a credit agreement between Sweden and the Union of Socialist Soviet Republics and of a protocol hereto, Article 13 of the Agreement of September 7, 1940 concerning the exchange of commodities and payments shall cease to be valid from the day when the aforementioned credit agreement becomes valid.

8. The present protocol shall go into effect upon the exchange of notes between representatives appointed in accordance with Article 5 of the agreement of September 7, 1940 concerning the exchange of commodities and payments, stating that the protocol has been approved by the competent authorities of both parties.

Done at Moscow on October 7, 1946 in two original copies, each in the Swedish and Russian languages, both texts having equal authority.

Thereunto duly authorized by the Swedish Government:

ROLF SOHLMAN.

Thereunto duly authorized by the Government of the Union of Socialist Soviet Republics:

P. KUMYKIN,
For the Minister of Foreign Trade of the Union of Socialist Soviet Republics.

[Enclosure to the protocol to the agreement concerning the exchange of commodities and payments between Sweden and the Union of Socialist Soviet Republics of September 7, 1940]

LIST 1.—*Quotas for Soviet exports to Sweden for the period through December 31, 1947*

No.	Commodity	Quantity or value	No.	Commodity	Quantity or value
1	Chromium ore	25,000 tons.	20.	Burned magnesite	1,000 tons.
2.	Manganese ore	15,000 tons.	21.	Petroleum derivatives	100,000 tons.
3.	Brownstone	300 tons.	22.	Lubricating oils	3,000 tons.
4.	Scrap iron	25,000 tons.	23.	Bitumen	2,000 tons.
5.	Pig iron	10,000 tons.	24.	Paraffin	750 tons.
6.	Rolled commercial iron	10,000 tons.	25.	Synthetic rubber	500 tons.
7.	Lead	1,000 tons.	26.	Archangel pitch	200 tons.
8.	Nickel	250 tons.	27.	Pure methanol	50 tons.
9.	Silver	30 tons.	28.	Red lead	500 tons.
10.	Platinum	50 kilograms.	29.	Glycerine	200 tons.
11.	Apatite concentrates	50,000 tons.	30.	Oak spars and sawn oak	10,000 cubic meters.
12.	Potash salts (40 percent)	100,000 tons.	31.	Aspen	4,000 cubic meters.
13.	Common salt	100,000 tons.	32.	Cotton	5,000 tons.
14.	Sodium sulphate	50,000 tons.	33.	Cotton waste	500 tons.
15.	Asbestos	2,000 tons.	34.	Swingled flax	300 tons.
16.	Anthracite (for manufacture of electrodes)	6,000 tons.	35.	Oakum	200 tons.
			36.	Goatskin	50,000 pieces.
17.	Gypsum	20,000 tons.	37.	Sheepskin	200,000 pieces.
18.	Burned gypsum	2,000 tons.	38.	Miscellaneous	
19.	Barium sulphate (heavy spar)	1,000 tons.		Total value	100,000,000 Kr.

LIST 2.—*Quotas for Swedish exports to the Union of Soviet Socialist Republics for the period through December 31, 1947*

[Enclosure to the protocol to the agreement concerning the exchange of commodities between Sweden and the Union of Soviet Socialist Republics of September 7, 1940]

No.	Commodity	Quantity or value	No.	Commodity	Quantity or value
1.	Borehole tubing	1,000 tons.	12.	Spare parts for automatic telephone exchanges.	1,000,000 Sw. cr.
2.	Steam boiler tubing	800 tons.	13.	Chemicals, i. e. tanning extracts.	2,000,000 Sw. cr.
3.	Drilling steel	2,000 tons.	14.	Fish and herring; i. e. salt herring in barrels (5,000 tons).	20,000,000 Sw. cr.
4.	Steel conveyor belting	100 tons.	15.	Draft horses	12,000,000 Sw. cr.
5.	High-grade steel and steel wire.	4,400,000 Sw. cr.	16.	Breeding cattle	5,000,000 Sw. cr.
6.	Machined tubing for ball bearings; ball bearing steel in rods; rolled and drawn wire for ball bearings.	8,000,000 Sw. cr.	17.	Miscellaneous equipment and material other than that contemplated by items 1 16 of the list of Swedish shipments under the credit agreement of October 7, 1946 between Sweden and the Soviet Union.	20,000,000 Sw. cr.
7.	Steel rope	2,000,000 Sw. cr.		Total value	100,000,000 Sw. cr.
8.	Wolfram and molybdenum filament, and other materials used in manufacture of electric bulbs, et cetera.	1,500,000 Sw. cr.			
9.	Ball and roller bearings.	10,000,000 Sw. cr.			
10.	Optical instruments & gauges.	2,000,000 Sw. cr.			
11.	Spare parts for turbo generators.	1,000,000 Sw. cr.			

NOTE.—From the quotas mentioned in this list there shall be deducted all the deliveries anticipated therein which have been effected up to and inclusive of December 31, 1947, irrespective of the date when the orders were placed.

CANADA

Treaty Series, 1946, No. 30

4. AGREEMENT BETWEEN CANADA AND THE UNITED KINGDOM FOR THE PURCHASE OF CANADIAN WHEAT

Signed at Ottawa, July 24, 1946; In Force July 24, 1946

The Government of Canada and the Government of the United Kingdom, recognising that their mutual interest in the maintenance of reasonable prices and adequate supplies of wheat for consumers and of steady and remunerative prices for producers can best be met by international co-operation in the expansion of world trade and employment, have entered into the following arrangements designed to ensure a measure of security in the supply and of stability in the price of wheat supplied by Canada to the United Kingdom:—

1. (*a*) The United Kingdom Government undertakes to purchase and the Canadian Government undertakes to sell the following quantities of Canadian wheat, which quantities include wheat to be processed into flour for sale to the United Kingdom Government:

(i) within the crop year 1946–47, 160,000,000 bushels;
(ii) within the crop year 1947–48, 160,000,000 bushels;
(iii) within the crop year 1948–49, 140,000,000 bushels;
(iv) within the crop year 1949–50, $140,000,000 bushels.

A bushel shall be of the weight of 60 pounds avoirdupois.

(*b*) In the event of the United Kingdom requiring from Canada any additional quantities of wheat that the Canadian Government is prepared to make available, such additional quantities which the Canadian Government offers and the United Kingdom Government accepts shall in all respects be subject to the provisions of this Agreement.

(*c*) Of the total quantity of wheat specified above for each crop year, the United Kingdom Government agrees to take the following quantity in long tons in the form of flour:

1946–47 500,000 tons as a minimum, with an additional quantity not exceeding 140,000 tons to be determined by negotiations in the light of the out-turn of the crop.

1947–48 400,000 tons as a minimum, with an additional quantity not exceeding 140,000 tons to be determined by negotiations in the light of the out-turn of the crop.
1948–49 300,000 tons as a minimum, the actual tonnage to be negotiated by the 1st July, 1947.
1949–50 300,000 tons as a minimum, the actual tonnage to be negotiated by the 1st July, 1948.

(*d*) The rate and place of deliveries of wheat and flour shall be determined from time to time by mutual agreement.

2. (*a*) The prices per bushel to be paid by the United Kingdom Government to the Canadian Government, on the basis Number One Manitoba Northern, in store Fort William/Port Arthur, Vancouver or Churchill, shall be as follows:—

(i) In respect of wheat bought and sold in the crop year 1946–47, $1.55.

(ii) In respect of wheat bought and sold in the crop year 1947–48, $1.55.

(iii) In respect of wheat bought and sold in the crop year 1948–49, not less than $1.25.

(iv) In respect of wheat bought and sold in the crop year 1949–50, not less than $1.00.

(*b*) The actual prices to be paid for wheat to be bought and sold within the crop year 1948–49 shall be negotiated and settled between the United Kingdom Government and the Canadian Government not later than the 31st December, 1947, and prices for wheat to be bought and sold within the crop year 1949–50 shall be negotiated and settled not later than the 31st December, 1948. In determining the prices for these two crop years, 1948–49 and 1949–50, the United Kingdom Government will have regard to any difference between the prices paid under this Agreement in the 1946–47 and 1947–48 crop years and the world prices for wheat in the 1946–47 and 1947–48 crop years.

(*c*) The prices to be paid for grades other than Number One Manitoba Northern to be delivered under this Agreement shall be determined yearly in consultation between the United Kingdom Government and the Canadian Government.

(*d*) In addition to the prices detailed in Section (*a*) of this Article, the United Kingdom Government undertakes to pay such carrying and forwarding charges as may be mutually arranged.

(*e*) Payment shall be made in full in Canadian funds at par Winnipeg by the United Kingdom Payments Office against presentation of completed statements of claim or otherwise as may be mutually agreed.

3. It is agreed that the United Kingdom Government may sell or dispose of the wheat and flour purchased under this Agreement in whatsoever manner the United Kingdom Government may deem expedient both in regard to destination and price.

4. (*a*) The Canadian Government will use its best endeavours to arrange that the quantities of wheat set out in Article 1 (*a*) shall at all times be available and at the disposal of the United Kingdom Government within the stipulated dates and in accordance with the rates and places of delivery determined under Section (*d*) of Article 1 of this Agreement.

(*b*) The United Kingdom Government will use its best endeavours to arrange for the provision of the required ocean tonnage within the stipulated dates and in accordance with the rates and places of delivery determined under Section (*d*) of Article 1 of this Agreement.

5. It is agreed that the detailed terms and conditions relating to such matters as carrying and forwarding charges, grades, routeing and shipments and all other matters incidental to the fulfilment of this Agreement shall be discussed and settled from time to time and incorporated in documents to form annexures to this Agreement.

6. It is mutually understood that matters arising from, or incidental to, the operation of this Agreement may at the instance of either party become subjects of discussion between the parties to this Agreement.

7. Having in mind the general purposes which this Agreement is designed to serve, the two Governments have agreed that its terms and conditions shall be subject to any modification or amendment which may be necessary to bring it into conformity with any international agreements or arrangements hereafter entered into to which both Governments are parties.

Done in duplicate, in Ottawa, on the twenty-fourth day of July, 1946.

For the Government of Canada:
JAS. A. MACKINNON.

For the Government of the United Kingdom:
P. A. CLUTTERBUCK.

ARGENTINA

Treaty Series No. 46 (1946)

5. Economic Agreement Between His Majesty's Government in the United Kingdom and the Argentine Government, Buenos Aires, 17th September, 1946

Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty

The Undersigned, Plenipotentiaries appointed to this effect by their respective Governments, as a result of the negotiations carried out in this Capital between the Argentine and the British Missions, have reached an Agreement concerning the following questions, the attached texts of which form an integral part of the present instrument:

(I) Payments
(II) Meat
(III) Railways
(IV) The Negotiation of a Trade Treaty

The Argentine Government and the Government of the United Kingdom enter into an engagement to take the necessary steps to implement the Agreement referred to, as soon as possible.

(Sd) R. A. Leeper
(Sd) W. Eady

(Sd) JUAN ATILIO BRAMUGLIA
(Sd) RAMÓN A. CEREIJO
(Sd) JUAN CARLOS PICAZO ELORDY
(Sd) JUAN PISTARINI
(Sd) ROLANDO LAGOMARSINO
(Sd) MIGUEL MIRANDA

(I) PAYMENTS

I. Current Payments

(1) Trade and financial payments between Argentina and the sterling area to continue to be settled in sterling.

(2) As from the date of this Agreement all sterling received by Argentina to be freely available for payment for current transactions anywhere. So long as the present technical difficulties temporarily preventing transfers of sterling to certain other countries subsist, this free availability can be exercised by transfer to American Account or, at the option of the Bank of England, into gold.

II. Sterling Balances accumulated up to the date of this Agreement

(1) As at the date of this Agreement, the spot balances of sterling accumulated on Argentine Special Accounts to be established.

(2) Argentina to be free to utilise part of this balance.

(*a*) to repatriate outstanding sterling public debt, national, provincial and municipal;

(*b*) to transfer to Brazil, subject to that country's agreement, an amount of up to £10 million;

(*c*) to repatriate British investments in Argentina.

(3) The sterling balance which Argentina maintains in London as established in II (1), as also the balance resulting therefrom once the operations in II (2) have been carried out, to continue to enjoy the existing gold guarantee.

(4) Interest on this balance to be ½ per cent. per annum; such interest to be freely available for current transactions.

(5) Of the said balance, Argentina, in each of the four years beginning as from the date of this Agreement, to be free to dispose of the sum of £5 million for payment for current transactions in accordance with I (2). At the end of this four-year period, further discussions on the balance to take place.

(6) If in any year the balance of payments with the Sterling Area were unfavorable to Argentina, Argentina may furthermore dispose freely, within the said Area, of its sterling balances for an amount equivalent to the deficit.

(7) The gold at present set aside in the name of the Banco Central de la Republica Argentina at the Bank of England (509,907·688 fine ounces) to be released.

III. Forward Sterling

The Argentine net sterling forward position as at the date of this Agreement to be established and all forward purchases of sterling established as being within that position to become freely available for current transactions as they mature. Pending maturity such net forward position to continue to enjoy the existing gold guarantee. Forward sterling operations after the date of this Agreement no longer to carry the gold guarantee.

IV. Paraguay

On and after the date of this Agreement, Paraguayan sterling purchased by the Banco Central de la República Argentina in accordance with the terms of the Tripartite Agreement to enjoy the facilities described in I.

(II) MEAT

The British Government agrees as part of an integral agreement:

1. Quantity and Period

To purchase the exportable surplus from Argentina for four years from the 1st October, 1946, after providing for a reserve for sale by the Argentine Government to other markets of not more than 17 per cent. in the first year and 22 per cent. in the second year; the British Government to buy any balance which is not in fact sold by the Argentine Government to other markets.

2. Allocations to other countries

The Argentine Government agrees to honour the arrangements which have been current during the last year under which, if the British Government assigns quantities of meat from this sale to other countries, they will form the subject of separate arrangements through the intermediary of the Institute for the Promotion of Exchange between the Argentine Government and those countries in respect of payment, but will be subject as to price to the terms of this Agreement. The question of types and quantities to be shipped against such allocations to continue, as at present, to be a matter for settlement between the British Government and such other countries. It is understood that, if the Argentine Government is unwilling to provide any quantity of meat so assigned to other countries, these quantities will be included in the sale to the British Government.

3. Categories

The meats covered by this arrangement to include beef, veal, mutton, lamb, pig meat, and the offals thereof, frozen and/or chilled, and canned meats.

4. Prices

Prices as from 1st October, 1946, to exceed the prices of the First Bulk Contract by at least 45 percent; definitive prices to be fixed taking into consideration the results arrived at in the special discussions to be held between representatives of the British Government and the technical subcommission designated by the Argentine Commission.

5. Clause of Revision

The prices agreed will remain in force until 30th September, 1948, and shall also apply to subsequent shipments unless, before the end of June, 1948, in respect of the period commencing 1st October, 1948, and before the end of June, 1949, in respect of the period commencing 1st October, 1949, either Government shall ask for reconsideration on substantial grounds.

In arriving at revised prices, which must of course be mutually agreed, it is agreed that full consideration will be given to prices ruling in other producing countries and that, besides the cost of production, any other relevant factors shall be taken into consideration, including the need to encourage production.

It is also agreed that the categories of meat to be purchased and the proportions to be reserved for other markets may be reviewed at the same dates and in respect of the same periods.

6. Single Payment

In order to facilitate the adjustment to present costs of production the British Government will make a single cash payment of £5 million in "free sterling" to the Argentine Government represented by the Argentine Institution for the Promotion of Exchange.

7. Canned Meats

Canned meats already bought and now in store to the account of the British Government and such further canned meats produced before the end of September, 1946, as may be due to be sold to the British Government under the terms of the arrangement that regulates the sale of meat up to 30th September, 1946, to be released for export by the Argentine Government as soon as ready for shipment.

(III) RAILWAYS

(*a*) An Argentine Company to be formed with participation of either the Argentine State and/or of Argentine private individuals, for the purpose of acquiring and operating the assets, direct and indirect, of the British-owned Railway Companies, which are situated in Argentina, as set out in a schedule to be agreed. The new Company to accept responsibility for the rights and responsibilities of the British Companies, except that the new company will not assume any responsibility in relation to the debentures issued by the British Companies.

(*b*) The Argentine Government to agree to set up a technical advisory subcommittee to meet representatives of the British Railway Companies before the end of October to agree the amount of the initial capital, the constitution of the new Company, the transfers, the basis of operation generally and any further connected questions. It is the intention that the transfer should be completed by the 1st Jauary, 1947, or as soon after as possible.

(*c*) The Argentine Government to grant the new Company exemption from all and any national, provincial and municipal taxes, present and future, and likewise will exempt the new Company from all and any customs-house duties, present and future, on the materials and articles for construction and working which it imports into Argentina. But this exemption from customs-house duties will not apply to materials and articles normally produced or manufactured in Argentina at time of import. The payment of dividends by the new Company to the British Railway Companies or to any holding company or organisation formed by them for the purpose of receiving and distributing payments to be made with the same complete exemption from reduction for Argentine taxation as has hitherto applied to financial remittances of profits by the British Companies from Argentina to London.

(*d*) The whole of the initial capital of the new Company to be in shares denominated in Argentine pesos and ranking *pari passu* in all respects and to be allotted to the British Companies credited as fully paid as the purchase price for the assets to be acquired. The Argentine Government to reserve the right on giving reasonable notice to acquire at any time at par part or all of the shares of the new Company in the hands of any holder. The British Railway Companies to be entitled to buy and sell shares in the new Company on the market in Argentina.

(*e*) If, at any time, during the course of two consecutive years, the net income of the new Company shall not reach 4 per cent. per annum of the issued capital, the Argentine Government will adopt the measures necessary to permit the new Company to earn an annual net income at 4% as a minimum. If in any year the net income exceeds 6 per cent. of the issued capital, the amount of such excess to be applied towards amortisation or redemption of the new Company's capital or for construction or extension to the Railways. If the net income available for distribution on the initial capital does not amount to 80 million pesos in any year, the amount of such deficiency will be made good to the holders of the initial capital by the Argentine Government. For the purpose of this paragraph it is understood that net income shall mean net income available for distribution after making provision for all outgoings, payments and contingent liabilities of whatever nature and an allowance for reserves required for renewals at rates to be agreed.

(*f*) The Argentine Government to provide to the new Company, in such manner as it may consider most convenient, 500 million pesos in cash over the period of the next five years, to be applied in the modernisation of the railway system. The new Company to issue new shares at par against the receipts of such sums. Such new shares to be of the same class as the shares of the initial capital except as regards the receipt of any difference for which the Argentine Government would be responsible under paragraph (*e*) when the annual net profits do not amount to 80 million pesos.

(*g*) No taxes, duties, fees or other charges to be payable by the new Company or the British Railway Companies which would ordinarily be due under national, provincial or municipal jurisdiction within the Argentine Republic in respect of the formation or incorporation of the new Company or in respect of cessions, transfers, notations and official publications required to be made under this Agreement.

(*h*) Upon approval being obtained as mentioned in the next paragraph and on the transfer being duly completed, the transfer to be deemed to take effect as from the 1st July, 1946. All the rights and obligations of the Argentine Government, the British Companies and the new Argentine Company under this Agreement to take effect as from that date.

(*i*) This Agreement is conditional on the approval of the shareholders of the British Companies being obtained in accordance with English Law and also on the approval of the Argentine Government in accordance with Argentine Law.

(IV) THE NEGOTIATIONS OF A TRADE TREATY

It is agreed that discussions should be initiated immediately to concert modifications to the Anglo-Argentine Trade Treaty recently expired. Pending the conclusion of those discussions, the provisions of the said Treaty to continue in force until the 31st December, 1946.

Buenos Aires, 17 de septiembre de 1946

Los abajo firmados, Plenipotenciarios designados a tal efecto por sus respectivos Gobiernos, y como resultado de las negociaciones realizadas en esta Capital entre las misiones argentina y británica, han llegado a un acuerdo sobre las siguiéntesr cuestiones, cuyos textos adjuntos forman parte integrante del presente instrumento:

(I) Pagos
(II) Carnes
(III) Ferrocarriles
(IV) Negociación de un Convenio Comercial

El Gobierno Argentino y el Gobierno del Reino Unido se comprometen a adoptar las providencias necesarias para cumplimentar los acuerdos mencionados en el más breve plazo posible.

(Sd) R. A. Leeper
(Sd) W. Eady

(Sd) Juan Atilio Bramuglia
(Sd) Ramon A. Cereijo
(Sd) Juan Carlos Picazo Elordy
(Sd) Juan Pistarini
(Sd) Rolando Lagomarsino
(Sd) Miguel Miranda

(I) PAGOS

I. Pagos Corrientes

(1) Los pagos commerciales y financieros entre la Argentina y el área esterlina continuarán efectuándose en libras esterlinas.

(2) A partir de la fecha de este convenio, todas las libras que reciba la Argentina serán libremente disponibles para el pago de transacciones corrientes en cualquier parte.

Mientras subsistan las actuales dificultades de orden técinico que transitoriamente impiden las transferencias de libre a ciertos otros países, podrá ejercerse la libre disponibilidad referida mediante transferencia a Cuenta Americana o, a la opción del Banco de Inglaterra, a oro.

II. Saldos en libras acumulados hasta la fecha de este convenio

(1) El saldo al contado de las libras acumuladas en Cuentas Especiales Argentinas se establecerá a la fecha de este convenio.

(2) La Argentina podrá disponer de parte de dicho saldo:

(*a*) para repatriar deuda pública en libras, nacional, provincial y municipal;

(*b*) para transferir al Brasil, sujeto al consentimiento de dicho país, un importe de hasta £10 millones;

(*c*) para rescatar inversiones de capital británico en la Argentina.

(3) El saldo en libras que la Argentina mantenga en Londres establecido de acuerdo con el párrafo II, inciso 1, como asimismo el que resulte una vez realizadas las operaciones referidas en el párrafo II, inciso 2, continuará gozando de la actual garantía de oro.

(4) El interés que redituará dicho saldo será del ½ por ciento por año; siendo interés libremente disponible para transacciones corrientes.

(5) De dicho saldo, la Argentina podrá, en cada uno de los cuatro años a contar desde la fecha de este convenio, disponer libremente de la suma de £5 millones para el pago de transacciones corrientes de acuerdo con el párrafo I, inciso 2. Al término del referido período de cuatro años se llevarán a cabo nuevas discusiones acerca del saldo.

(6) Si en cualquier año el balance de pagos con el área esterlina fuera desfavorable para la Argentina, ésta podrá disponer además libremente dentro de dicha área de sus saldos en libras por un importe equivalente al déficit.

(7) Quedara liberado el oro actualmente apartado a nombre del Banco Central de la República Argentina en el Banco de Inglaterra (509,007.083 onzas finas).

III. Libras a Término

Se establecerá el saldo neto de la posición a término de la Argentina a la fecha de este concenio y todas las compras a término de libras que se verifiquen como comprendidas dentro de dicha posición quedarán libremente disponibles para transacciones corrientes a medida que venzan. Hasta su vencimiento, dicho saldo neto de la posición a término gozará de la garantía de oro actualmente en vigor.

Las operaciones en libras a término que se efectúen a partir de la fecha de este convenio no gozarán de la garantía de oro.

IV. Paraguay

A partir de la fecha de este convenio, las libras paraguayas que adquiera el Banco Central de la República Argentina de acuerdo con los términos del Convenio Tripartito, gozarán de las facilidades expuestas en el párrafo I precedente.

(II) CARNE

El Gobierno Británico conviene, como parte de un acuerdo integral:

1. Cantidad y Plazo

Adquirir el saldo exportable de la Argentina durante cuatro años a partir del 1° de octubre de 1946 después de haberse provisto una reserva para su venta por el Gobierno Argentino a otros mercados de no más del 17 por ciento en el primer año y del 22 por ciento en el segundo año; el Gobierno Británico comprará cualquier saldo que no sea efectivamente vendido por el Gobierno Argentino a otros mercados.

2. Asignaciones a otros países

El Gobierno Argentino conviene en hacer honor a los arreglos que han regido durante el último año, bajo los cuales, si el Gobierno Británico asigna a otros países cantidades de carne provenientes de esta venta, las mismas serán el objeto de arreglos separados entre el Gobierno Argentino, por intermedio del Instituto para la Promoción del Intercambio, y aquellos países, en lo que respecta a los pagos, perod estarán sujetos en cuanto a precio a los términos de este arreglo. Lo referente a los tipos y cantidades a ser embarcados bajo dichas asignaciones continuará, como hasta el presente, siendo objeto de liquidaciones entre el Gobierno Británico y tales otros países. Queda entendido que si el Gobierno Argentino no estuviera dispuesto a proveer cualesquiera cantidades de carne así asignadas a otros países, estas cantidades serán incluídas en la venta al Gobierno Británico.

3. Categorías

Las carnes abarcadas por este arreglo, incluirán carne vacuna, de ternera, ovina, de cordero, porcina, y las menudencias de las mismas, congelada y/o "chilled," y carnes envasadas.

4. Precios

Los precios a partir del 1° de octubre de 1946 excederán de los precios del Primer Contrato Global en por lo menos un 45 por ciento; se establecerán precios definitivos tomando en consideración los resultados a que se arribe en las discusiones especiales a efectuarse entre representantes del Gobierno Británico y la subcomisión técnica designada por la Comisión Argentina.

5. Cláusula de revisión

Los precios convenidos permanecerán en vigor hasta el 30 de septiembre de 1948 y se aplicarán además a embarques posteriores a menos que, con anterioridad al fin de junio de 1948, en lo que respecta al período que comienza el 1° octubre de 1948, y con anterioridad al fin de junio de 1949, en lo que respecta al período que comienza el 1° de octubre de 1949, cualesquiera de los dos Gobiernos solicitara una reconsideración sobre bases sustanciales.

Para determinar los precios revisados, los cuales deberán por supuesto ser convenidos mutuamente, queda convenido que se dará plena consideración a los precios que rigen en otros países productores y que se tomará en cuenta, además de los costos de producción, cualquier otro factor pertinente, inclusive el de la necesidad de fomentar la producción.

Queda asimismo convenido que las clases de carne a comprarse y las proporciones a reservarse para otros mercados puedan ser revisadas en las mismas fechas y con respecto a los mismos períodos.

6. Pago Unico

Con el fin de facilitar el ajuste a los actuales costos de producción, el Gobierno Británico efectuará un solo pago en efectivo de 5 millones en "libras esterlinas libres" al Gobierno Argentino, representado por el Instituto Argentino para la Promoción del Intercambio.

7. Carnes Envasadas

Las carnes envasadas ya compradas y actualmente almacenadas por cuenta del Gobierno Británico y las cantidades adicionales de carnes envasadas producidas antes del fin de septiembre de 1946 que deban venderse al Gobierno Británico bajo las estipulaciones del convenio que regula la venta de carne hasta el 30 de septiembre de 1946, serán liberadas por el Gobierno Argentino para su exportación tan pronto estén listas para su embraque.

(III) FERROCARRILES

(*a*) Se formará una compañía argentina, con participación ya sea del Estado Argentino y/o de particulares argentinos, con el propósito de adquirir y explotar los bienes, directos o indirectos, de las compañías ferroviarias de capital británico, situados en la Argentina, que se detallarán en una planilla a ser convenida.

La nueva compañía tomará a su cargo los derechos y obligaciones de las empresas británicas, excluyendo cualquier responsabilidad relativa a los debentures emitidos por las empresas británicas.

(*b*) El Gobierno Argentino convendrá en designar una Subcomisión Técnica Asesora que se reunirá con representantes de las compañías ferroviarias británicas antes de fin de octubre de 1946, para convenir el monto del capital inicial, la constitución de la nueva compañía, las transferencias y en general las bases de explotación y las demás cuestiones conexas, siendo la intención que la transferencia sea completada el 1° de enero de 1947 o cuanto antes sea posible después de esa fecha.

(*c*) El Gobierno Argentino exonerará a la nueva compañía de todos y cualesquiera impuestos nacionales, provinciales y municipales presentes y futuros y exonerará asimismo a la nueva compañía de todos y cualesquiera derechos de aduana presentes y futuros sobre los materiales y artículos de construcción y explotación que introduzca a la Argentina, pero la exoneración de derechos de aduana no regirá cuando se trate de materiales y artículos normalmente producidos o manufacturados en la Argentina en el momento de efectuarse la importación.

Los pagos de dividendos por la nueva sociedad a las compañías ferroviarias británicas, o a cualquier compañía de "holding" u organización formada por las mismas con el objeto de recibir y distribuir los pagos, serán efectuados bajo el mismo régimen de exención completa de deducciones por impuestos argentinos aplicado hasta ahora a las remesas de las ganancias realizadas por las compañías ferroviarias británicas, de Argentina a Londres.

(*d*) La totalidad del capital inicial de la nueva compañía consistirá en acciones, denominadas en pesos moneda nacional o iguales entre sí en todo respecto, que serán asignadas a las compañías británicas, acreditándoseles como totalmente integradas, como precio de compra de los bienes a ser adquiridos. El Gobierno Argentino se reservará el derecho, con un preaviso razonable, de adquirir en cualquier momento a la par una parte o la totalidad de las acciones de la nueva compañía en manos de cualquier tenedor.

Las compañías ferroviarias británicas quedarán facultadas para vender y comprar en plaza en la Argentina acciones de la nueva compañía.

(e) Si luego, durante el curso de los años consecutivos, el rendimiento neto de la nueva sociedad fuese inferior al 4% anual del capital emitido, el Gobierno Argentino adoptará las medidas necesarias para permitir a la nueva sociedad producir ese rendimiento neto anual del 4% como mínimo. Si, en cualquier año, el rendimiento neto excediera del 6% del capital emitido, el monto excedente será aplicado para amortización o rescate del capital de la nueva sociedad o para construcción o extensión de los ferrocarriles. Cuando el rendimiento neto anual disponible para distribución sobre el capital inicial fuese inferior a 80 millones de pesos argentinos en cualquier año, la diferencia hast alcanzar dichos 80 millones será costeada por el Gobierno Argentino, a favor de los tenedores del capital inicial.

A los efectos de este artículo, se entiende como rendimiento neto de la nueva compañía, el que resulte distribuible después de deducir los recursos necesarios para las erogaciones y pagos pendientes de cualquier naturaleza y para las reservas destinadas a renovaciones conforme a porcentajes que se convendrán.

(f) El Gobierno Argentino incorporará a la nueva sociedad, en la forma que considere más conveniente, 500 millones de pesos argentinos en efectivo durante el período de los próximos 5 años, para ser invertidos en la modernización del sistema ferroviario. La nueva sociedad emitirá nuevas acciones a la par contra el recibo de tales sumas. Estas nuevas acciones tendrán la misma categoría que las acciones del capital inicial, excepto en lo que se refiere al cobro de cualquier diferencia a cargo del Gobierno Argentino conforme al artículo (e) cuando las ganancias anuales netas no alcanzasen a 80 millones de pesos.

(g) Ningún impuesto, derecho, honorario u otras cargas serán exigibles a la nueva sociedad ni a las compañías ferroviarias británicas, aunque ordinariamente fuesen exigibles, en jurisdicción nacional, provincial o municipal dentro de la República Argentina con motivo de la formación e inscripción de la nueva sociedad, o con motivo de las cesiones, transferencias, anotaciones y publicaciones oficiales requeridas por el cumplimiento de este acuerdo.

(h) Obtenida la aprobación a que se alude en el párrafo siguiente, y completada debidamente la transferencia, se considerará que dicha transferencia es efectiva a partir del 1° de julio de 1946.

Todos los derechos y obligaciones del Gobierno Argentino, de las compañías británicas y de la nueva compañía argentina, expuestos bajo este acuerdo, se harán efectivos desde dicha fecha.

(i) La validez de este acuerdo está condicionada a la aprobación de los accionistas de las compañías británicas, de acuerdo con la Ley Inglesa, y además a la aprobación del Gobierno Argentino conformé a las leyes argentinas.

(IV) NEGOCIACION DE UN CONVENIO COMERCIAL

Queda convenido que se iniciarán inmediatamente discusiones para concertar modificaciones al Convenio Comercial Anglo-Argentino recientemente fenecido. Pendiente la terminación de dichas discusiones, las disposiciones de dicho Convenio continuarán en vigor hasta el 31 de diciembre de 1946.

[Enclosure No. 1 to Report No. 1487 of December 12, 1946, from the Embassy at London, England]

FRANCE

Treaty Series No. 57 (1946)

6. FINANCIAL AGREEMENT BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE GOVERNMENT OF THE FRENCH REPUBLIC, LONDON, 3RD DECEMBER, 1946

Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty

ANGLO-FRENCH FINANCIAL AGREEMENT

The Government of the United Kingdom of Great Britain and Northern Ireland (hereafter called the Government of the United Kingdom) and the Government of the French Republic (hereafter called the French Government),

Desiring to amend the arrangements resulting from the Financial Agreement signed on 27th March, 1945,[1] as amended by the Supplementary Agreement signed on the 29th April, 1946,[2]

Have agreed as follows:—

ARTICLE 1

The provisions of Article 2 of the Supplementary Financial Agreement of 29th April, 1946, and of the Annex thereto are hereby cancelled and are replaced by the provisions of this Agreement and the Annex to this Agreement.

ARTICLE 2

Taking into account the payments in gold under Article 2 (1) (*a*) of the Financial Agreement of 27th March, 1945, made by the French Government prior to the signature of the present Agreement which have been determined by agreement at £50 million, and also the payments effected up to 10th September, 1946, inclusive, by means of the transfer of requisitioned securities under the Supplementary Agreement of 29th April, 1946, and of its Annex, the debt of the French Government to the Government of the United Kingdom resulting from the advances received under Article 1 of the said Agreement is fixed at £99,188,750 1*s.* 4*d.*

ARTICLE 3

(1) The debt referred to in Article 2 shall bear interest at the rate of ½ per cent per annum as from 1st September, 1946. The interest due for the first three years shall be capitalised and added to the sum of £99,188,750 1*s.* 4*d* which will consequently be increased to £100,670,581 6*s.* 4*d.* on the 1st September, 1949.

(2) The redemption of this sum, as well as the payment of the interest maturing after 1st September, 1949, shall be effected by twelve equal annual payments of £8,604,873 18*s.* 2*d.* each over the period 1st September, 1950, 1st September, 1961, the payments being due on 1st September of each year.

(3) The French Government shall have the right at any time to make redemption payments before the due dates referred to in Paragraph (2) above. If such payments are made the amount of the remaining annual payments due up to 1st September, 1961, shall be revised in a manner to be agreed between the parties.

ARTICLE 4

There shall be drawn up:—

(*a*) A further list of claims to be waived in accordance with Article 5 (2) of the Agreement of 27th March, 1945.

(*b*) A further list of claims to be credited or debited to Account B in pursuance of Article 4 (4) of the above-mentioned Agreement.

(*c*) A final programme for the supplies of a total value of £45 million provided for in Article 5 (2) (iii) of the above-mentioned Agreement. This programme shall include the acquisition by the French Government of surplus stores and fixed installations of the British Armed Forces in Continental France and French North Africa, the global value of which has been determined by agreement at £4,100,000.

ARTICLE 5

The settlement of the sums mentioned in Article 4 (*b*) above shall be made as soon as possible. If after the crediting of all such sums due to the French Government, the Funds in Account B are insufficient to permit payment of all such sums due to the Government of the United Kingdom, the French Government shall pay the balance from its other resources in two equal instalments payable on 1st September, 1950, and 1st September, 1951.

ARTICLE 6

The technical arrangements laid down in the Annex to the Agreement of 27th March, 1945, shall continue in force after 31st December, 1946, until such time as they shall be modified in the light of the respective international commitments of the two Governments.

[1] "France No. 1 (1945)," Cmd. 6613.
[2] "Treaty Series No. 12 (1946)," Cmd. 6809.

ARTICLE 7

The present Agreement shall be deemed to have entered into force as from 29th November, 1946.

In faith whereof the undersigned, duly authorised by their respective Governments, have signed the present Agreement and have affixed thereto their seals.

Done in London, in duplicate, the 3rd day of December, 1946, in English and French, both texts being equally authentic.

(L.S.) O. G. SARGENT.
(L.S.) R. MASSIGLI.

ACCORD FINANCIER FRANCO-BRITANNIQUE

Le Gouvernement de la République Française ci-dessous désigné le Gouvernement français) et le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord (ci-dessous désigné le Gouvernement du Royaume-Uni),

Désireux de modifier les arrangements résultant de l'accord financier du 27 mars 1945 modifié par l'avenant du 29 avril 1946,

Son convenus de ce qui suit :

ARTICLE 1er

Les dispositions de l'article 2 de l'avenant du 29 avril 1946 et de l'annexe audit avenant sont abrogées et remplacées par les disposition du présent accord et de son annexe.

ARTICLE 2

Compte tenu des remboursements en or fixés d'un commun accord à £50 millions, faits par le Gouvernement français avant la signature du présent accord, en application de l'article 2 (1) (*a*) de l'accord financier du 27 mars 1945, et des remboursements opérés jusqu'au 16 septembre 1946 inclus au moyen de la cession de valeurs mobilières réquisitionnées, en application de l'avenant du 29 avril 1946 et de son annexe, la dette du Gouvernement français envers le Gouvernement du Royaume-Uni résultant des avances reçues au titre de l'article 1er de l'accord du 27 mars 1945 est arrêtée à £99,188,750 1*s*. 4*d*.

(1) La dette visée à l'article 2 portera intérêt au taux de 0.50 pour cent l'an à compter du 1er septembre 1946. L'intérêt dû pour les trois premières années sera capitalisé et ajouté au montant de £99,188,750 1*s*. 4*d*., qui se trouvera ainsi porté à £100,676,581 0*s*. 4*d*. au 1er septembre 1949.

(2) Le remboursement de cette somme, ainsi que le paiement des intérêts dus pour les échéances postérieures au 1er septembre 1949, seront assurés au moyen du versement de douze annuités égales, d'un montant de £8,664,878 18*s*. 2*d*. chacune, s'échelonnant du 1er septembre 1950 au 1er septembre 1961, et payables le 1er septembre de chaque année.

(3) Le Gouvernement français aura le droit à tout moment de procéder à des remboursements anticipés par rapport aux échéances prévues au paragraphe (2) ci-dessus. Si de tels paiements sont faits, le montant des annuités restant dues jusqu'au 1er septembre 1961 sera révisé selon des modalités fixées entre les deux parties.

ARTICLE 4

Seront établis :

(*a*) Une liste supplémentaire de revendications à annuler en application de l'article 5 (2) de l'accord due 27 mars 1945.

(*b*) Une liste supplémentaire de créances et de dettes à imputer au compte "B" en vertu de l'article 4 (4) dudit accord.

(*c*) Un programme définitif pour les livraisons, d'une valeur totale de £45 millions, prévues à l'article 5 (2) (iii) du même accord. Ce programme comprendra l'acquisition par le Gouvernement français des surplus et des installations fixes des Forces armées britanniques en France continentale et en Afrique du Nord français, dont la valeur totale a été fixée d'un commun accord à £4,100,000.

ARTICLE 5

Les règlements mentionnés à l'article 4 (*b*) ci-dessus seront faits le plus tôt possible. Si après avoir été crédité de toutes les sommes dues à ce titre au Gouvernement français, le compte "B" ne présente pas des disponibilités suffisantes

pour permettre le paiement de la totalité des sommes dues à ce titre au Gouvernement du Royaume-Uni, le Gouvernement français remboursera le solde sur ses autres ressources en deux versements égaux qui seront exigibles le 1er septembre 1950 et le 1er septembre 1951.

ARTICLE 6

Les dispositions techniques faisant l'objet de l'annexe à l'accord du 27 mars 1945 demeureront en vigueur après le 31 décembre 1946 jusqu'au moment où elles devront être modifiées à la lumière des engagements internationaux respectifs des deux Gouvernements.

ARTICLE 7

Le présent accord sera considéré comme entré en vigueur à compter du 29 novembre 1946.

En foi de quoi les soussigné, dûment autorisés par leurs Gouvernements respectifs, ont signé le présent accord et y ont apposé leur sceau.

Fait le 3 décembre 1946, à Londres, en deux exemplaires, en français et en anglais, les deux textes faisant également foi.

(L.S.) O. G. SARGENT.
(L.S.) R. MASSIGLI.

ANNEX TO THE ANGLO-FRENCH FINANCIAL AGREEMENT

1. The Government of the United Kingdom shall continue to acquire the securities which may be offered to them by the French Government and which they may be willing to accept (hereafter referred to as "the agreed securities"). The two Governments shall consult each other periodically regarding the choice of these securities.

2. (*a*) The Government of the United Kingdom shall purchase from the French Government the agreed securities at prices which, subject to the provisions of paragraph 3 below, shall be based on the middle prices quoted on the day on which the Government of the United Kingdom ascertain that the securities are good delivery in London in the Stock Exchange Daily List of Officially Quoted Securities or in the Stock Exchange Daily Supplementary List of Securities not Officially Quoted.

In the event of any of the agreed securities not being quoted in either of the above-mentioned lists, the price shall be based on the market price as certified by the Official Stockbroker of the Government of the United Kingdom.

All expenses connected with the transfer of the securities shall be chargeable to the French Government.

(*b*) The Government of the United Kingdom shall purchase on the same terms as those laid down in (*a*) above the agreed securities which have been requisitioned by the French Government before the date of the present arrangement but not delivered to the Bank of England until on or after that date.

3. The Bank of England will use its best endeavours to complete the transfer of securities from the French Government to the Government of the United Kingdom within 30 days of the date of their delivery to the Bank of England for account of the Bank of France.

Where securities or documents relating thereto are delivered to the Bank of England in good order and more than 30 days are taken to establish that fact, the Bank of England shall inform the Bank of France of the circumstances.

In cases where it is agreed that the establishment of the fact that the securities and documents are in good order has caused undue delay, the price to be paid shall be that which would have been payable on the 30th day after delivery or that which would have been payable on the day of acceptance, whichever is the higher.

4. The sums which the French Government is to receive as the price of securities purchased under 2 (*a*) and (*b*) above, together with any sums accruing to the French Government between the 17th September, 1946, and the date of this agreement in respect of securities sold to the Government of the United Kingdom, will be freely available on or after the 1st January, 1947, for all current payments from the franc area to the sterling area.

5. The Bank of France and the Bank of England acting as agents for their respective Governments shall consult each other for the purpose of making all the necessary technical arrangements for carrying out the provisions of this Annex.

6. Either of the contracting Governments may give notice to the other at any time after 31st December, 1947, of its intention to terminate the provisions of this Annex which shall cease to have effect three months after the date of such notice.

[Enclosure No. 2 to despatch No. 94207 of July 11, 1946, from the Embassy at London, England]

France No. 1 (1946)

I. Financial Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Provisional Government of the French Republic, Paris, 27th March, 1946

Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty

The Provisional Government of the French Republic (hereafter called the French Government) and the Government of the United Kingdom of Great Britain and Northern Ireland (hereafter called the Government of the United Kingdom):

Desirous of developing to the maximum commercial exchanges between the franc area and the sterling area, and of facilitating current settlements, especially commercial payments, between the two areas; and, further,

Desirous of reaching a final settlement of the various financial claims which have arisen between the two Governments since the beginning of the war,

Have agreed as follows:—

SECTION I

Article 1

1. (a) The Government of the United Kingdom shall make available to the French Government a non-interest bearing credit up to £100 millions, to be available up to the 28th February, 1948. The Bank of England shall open in the name of the French Government an account to be called Account A, to which instalments of this credit shall be paid at the request of the Bank of France (acting as the agent of the French Government). This Account A will be utilised by the French Government in order to provide funds, so far as this is necessary, for the account of the Bank of France at the Bank of England.

(b) The French Government shall make available to the Government of the United Kingdom a non-interest bearing credit up to Francs 80 milliards, to be available up to the 28th February, 1948. The Bank of France shall open in the name of the Government of the United Kingdom an account to be called Account A, to which instalments of this credit shall be paid at the request of the Bank of England (acting as the agent of the Government of the United Kingdom). This Account A will be utilised by the Government of the United Kingdom to provide funds, so far as this is necessary, for the account of the Bank of England at the Bank of France.

(c) If the figure of £100 millions mentioned in sub-paragraph (a) above, or the figure of Francs 80 milliards mentioned in sub-paragraph (b) above, should prove insufficient, the two Governments shall consult together with a view to increasing these figures as necessary in order that there shall always be sufficient funds in the account of the Bank of France at the Bank of England and in the account of the Bank of England at the Bank of France.

2. On the 28th February, 1948, a balance shall be struck by comparing the drawings to date of the Government of the United Kingdom and the French Government on their respective A Accounts. This balance shall be struck in the currency of the creditor Government. To this end the drawings made in the currency of the debtor Government shall be converted into the currency of the creditor Government on the basis of the official rate of exchange in force at the date of each drawing.

Article 2

1. If, on the 28th February, 1948, the calculation referred to in Article 1 (2) above results in a balance in sterling due from the French Government to the Government of the United Kingdom, this balance shall be settled as follows:—

(a) The French Government shall discharge the balance in gold up to the equivalent of one-third of the gross total of the payments in franc or sterling currencies made during the year ending the 28th February, 1948, from the franc area to the sterling area, excluding those payments made out of

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Account B referred to in Article 4 below. This total shall be determined by agreement between the Bank of France and the Bank of England.

(b) If Account B referred to in Article 4 below shows on the 28th February, 1946, a balance in sterling in favour of the French Government, the French Government shall utilise this balance, insofar as is necessary, to pay the remainder of the amount due by them after the payment in gold mentioned in sub-paragraph (a) above.

(c) If the payment mentioned in sub-paragraph (b) above shall not be sufficient to liquidate the remainder of the amount due by the French Government, the balances which shall not have been reimbursed on the 28th February, 1946, shall be carried forward on conditions to be agreed between the two Governments.

3. If, on the 28th February, 1946, the calculation referred to in Article 1 (2) above results in a balance in favour due from the Government of the United Kingdom to the French Government, this balance shall be settled as follows:

(a) The Government of the United Kingdom shall discharge the balance in gold up to the equivalent of one third of the total of the payments in sterling or franc currencies made during the year ending the 28th February, 1946, from the sterling area to the franc area, excluding those payments which are made into Account B referred to in Article 4 below. This total shall be determined by agreement between the Bank of France and the Bank of England.

(b) If the payment mentioned in sub-paragraph (a) above shall not be sufficient to cover the total amount due by the Government of the United Kingdom, the balances which shall not have been reimbursed on the 28th February, 1946, shall be carried forward on conditions to be agreed between the two Governments.

Article 5.

As from the date of coming into force of this Agreement settlements between the franc area and the sterling area as well as the general monetary relations between the two areas shall be regulated by the technical provisions set out in the Annex to this Agreement.

SECTION 2

Article 6.

1. The Bank of England (acting as agent for the Government of the United Kingdom) shall open a sterling account to be called Account B in the name of the French Government.

2. The following sums shall be credited to Account B:—

(a) As soon as possible after the signature of this Agreement the French Government shall pay into Account B, by drawing on Account A mentioned in Article 1 (1) (a) above, the sum of £40 millions, which shall be deemed by the two contracting Governments to be the equivalent of the excess of the sterling monies in the United Kingdom belonging at the date of this Agreement to persons resident in Continental France over the franc monies belonging at the same date in Continental France to persons resident in the United Kingdom.

(b) The Government of the United Kingdom shall pay into Account B the following sums:—

(i) The balance in the France-British Liquidation Account established in July 1940.

(ii) Sums due by the Government of the United Kingdom resulting from the use since June 1940 of French merchant ships and from the disposal of cargoes belonging to persons resident in the franc area.

(iii) Sterling sums due by the Government of the United Kingdom to the French Government in connection with the expenditure of the British Armed Forces in the franc area during the period prior to the entry into force of the present Agreement.

3. The French Government shall pay out of Account B, as soon as funds are available, the following sums:—

(a) The sum due by the French Government to the Government of the United Kingdom as reimbursement of the advances made by the latter to the French National Committee in accordance with the terms of the Agreement of the 7th August, 1940,[1] between the British Prime Minister and Gen-

[1] "France No. 2 (1940)." Cmd. 6220.

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eral de Gaulle. This sum shall be determined by agreement between the two Governments.

(*b*) Sums due by the French Government to the Government of the United Kingdom for the period prior to the entry into force of the present Agreement in connection with supplies furnished for the civil population of Continental France by the Allied Armed Forces.

4. Any further sums may be paid into or out of Account B by agreement between the two Governments.

Article 5.

1. The Anglo-French Financial Agreement of the 12th December, 1939, is hereby abrogated, and no claims shall be made by either contracting Government against the other in respect of its provisions.

2. The two Governments being desirous of waiving all further financial claims against one another arising out of the prosecution of the war have agreed as follows:—

(i) The French Government shall waive their claim to all payments by the Government of the United Kingdom for—

(*a*) The transfer to the Government of the United Kingdom on the 16th June, 1940, of the munition contracts in course of execution in the United States for the account of the French Government.

(*b*) The repayment of sums disbursed by the French Treasury in respect of debts contracted in France prior to June 1940 by the British Expeditionary Force.

(*c*) Repayment of the balance in favour of the French Government in the Reciprocal Advances Account set up in 1940.

(*d*) War material made available in 1940 by the French Government to the Finnish Government on behalf of the Government of the United Kingdom.

(ii) The Government of the United Kingdom shall waive their claim to all payments by the French Government for—

(*a*) War material furnished to the Turkish Government by the Government of the United Kingdom on behalf of the French Government.

(*b*) War material furnished prior to the 1st July, 1940, by the Government of the United Kingdom to the French Government.

(*c*) Expenditure of the Government of the United Kingdom on the maintenance of French troops in the United Kingdom in 1940, other than expenditure incurred under the provisions of the Agreement of the 7th August, 1940, between the British Prime Minister and General de Gaulle.

(iii)

(*a*) The Government of the United Kingdom shall make available to the French Government, free of cost, in accordance with the Annex to this Article, supplies of goods and services of agreed categories which shall be estimated by common agreement to represent a total value of £45 millions.

(*b*) No part of the above supplies shall be sold by the French Government outside French territories.

(*c*) The two Governments shall co-operate to ensure that the total deliveries arranged under this paragraph shall reach the agreed amount.

(*d*) The two Governments shall also co-operate with a view to determining which supplies and services shall fall within the scope of this paragraph, and which shall fall within the scope of Mutual Aid.

(iv) In application of the provisions of paragraph 2 (i) (*a*) above, the French Government shall refund to the Government of the United Kingdom the sums which the latter has paid in dollars to an account at the Bank of Canada in connection with the transfer of the said munition contracts. This repayment shall be made by instalments *pari passu* with the implementation of the programme of deliveries referred to in paragraph 2 (iii) (*a*) above.

Annex to Article 5.

(1) The two Governments will consult together from time to time to draw up the lists of supplies, materials, equipment and services referred to in Article 5, paragraph 2 (iii). They will draw up the first list as soon as possible.

(2) The supplies, materials and equipment referred to may include any new or second-hand article (apart from raw materials), which is, or which may become, the property of the Government of the United Kingdom, and has been produced or acquired for war purposes.

(3) The deliveries of the supplies, materials and equipment referred to in the preceding paragraph may be either for the use of the French Military, Naval and Air Forces, having regard to Article 5, paragraph 2 (iii) (*d*), or for the satisfaction of French civilian needs, and may include such categories as materials, equipment and installations for ports, railways, inland waterways, road, sea and air transport, public works, telecommunications, mines, public utilities, hospitals, housing, &c., as well as for manufacturing industries. This enumeration is purely indicative, and is only intended to show those classes of French civilian needs which are most pressing.

(4) The services may include in particular those required in connection with the shipment and delivery of supplies, to which reference has been made above, and to charges for hire of such goods.

(5) The two Governments will do all in their power to see that the programme is implemented with the least possible delay.

(6) The global value of the supplies, materials and equipment included in each list will be determined by common agreement, on the basis of original cost, after making suitable deduction for depreciation due to wear and tear.

SECTION 3.

Article 6.

1. The Government of the United Kingdom shall make available to the French Government any information which, by virtue of the British regulations regarding trade with countries in enemy occupation it may possess concerning assets in the sterling area belonging to French nationals residing in the franc area.

2. The French Government shall make available to the Government of the United Kingdom on a reciprocal basis any information which it may have regarding assets in the franc area belonging to persons of British nationality residing in the sterling area.

SECTION 4.

Article 7.

The Financial Agreement of the 8th February, 1944, between the French Committee of National Liberation and the Government of the United Kingdom shall be abrogated as from the date of the signature of this Agreement.

Article 8.

1. The present Agreement shall be deemed to have entered into force on the 1st March, 1945.

2. The provisions of Section 1 of the present Agreement and the Annex attached thereto shall be valid for one year. At least three months before the end of that period (that is to say before the 1st December, 1945), conversations shall take place with a view to examining the possibility of prolonging the provisions of Section 1 and the Annex for a further period of one year, account being taken of any modifications which circumstances may render necessary.

In faith whereof the undersigned plenipotentiaries, being duly authorised thereto, by their respective Governments, have signed the present Agreement and have affixed thereto their seals.

Done this 27th day of March, 1945, at Paris in duplicate, in English and French, both texts being equally authentic.

On behalf of the Government of the United Kingdom of Great Britain and Northern Ireland:

JOHN ANDERSON.

On behalf of the Provisional Government of the French Republic:

R. PLEVEN.

ANNEX TO ANGLO-FRENCH FINANCIAL AGREEMENT

I. (1) The Bank of England shall open an account No. 1 in the name of the Bank of France which shall be credited with:—

(*a*) Sterling amounts drawn from the credit placed at the disposal of the French Government by the Government of the United Kingdom in accordance with Article 1 of the Financial Agreement;

(*b*) Sterling amounts accruing to the Bank of France as a result of sterling settlements in accordance with the exchange regulations in force in the Sterling Area.

(ii) The Bank of France shall open an account No. 1 in the name of the Bank of England, which shall be credited with:—

(a) Franc amounts drawn from the credit placed at the disposal of the Government of the United Kingdom by the French Government in accordance with Article 1 of the Financial Agreement;

(b) Franc amounts accruing to the Bank of England as a result of franc settlements in accordance with the exchange regulations in force in the Franc Area.

(iii) Each of the two Banks is required at all times, on the request of the other, to re-purchase at the official rate the balance on No. 1 Account standing in the name of the other, even though such re-purchase would necessitate drawing on the credits referred to above.

II. To the extent required for the execution of the Financial Agreement and of the present Annex the Bank of France and the Bank of England shall sell each other gold on a basis agreed upon between them.

III. (i) The Government of the United Kingdom shall not restrict the free use of sterling which may be at the disposal of residents of the Franc Area for:—

(a) All transfers to other residents of the Franc Area.

(b) All payments to other residents of the Sterling Area.

(c) Transfers to residents of countries not included in the Franc or Sterling Areas to the extent that they may be sanctioned by the Government of the United Kingdom in application of the arrangements contemplated in paragraph VII (iii) (a) below.

(ii) The French Government shall not restrict the free use of francs which may be at the disposal of residents of the Sterling Area for:—

(a) All transfers to other residents of the Sterling Area;

(b) All payments to residents of the Franc Area;

(c) Transfers to residents of countries not included in the Franc or Sterling Areas to the extent that they may be sanctioned by the French Government in application of the arrangements contemplated in paragraph VII (iii) (a) below.

IV. (i) To the extent that the Bank of France requires currencies of territories of the Sterling Area (other than sterling) in order to make payments in such territories the Bank of France shall purchase such currencies through the Bank of England against payment in sterling.

(ii) To the extent that the Bank of England requires currencies of territories of the Franc Area (other than the French franc) in order to make payments in such territories the Bank of England shall purchase such currencies through the Bank of France against payment in francs.

V. The Authorities responsible for Exchange Control shall mutually assist one another to keep capital movements between the two areas within the scope of their respective policies and in particular in order to prevent transfers which would not serve direct and useful economic or commercial purposes.

VI. Any sterling held by the Bank of France may be held and invested only as may be agreed by the Bank of England and any francs held by the Bank of England may be held or invested only as may be agreed by the Bank of France.

VII. (i) If during the period of application of the present Annex the two Governments become parties to a general international monetary agreement, they shall review the provisions of the present Annex with a view to making any amendments which may prove necessary.

(ii) So long as the present Annex remains in force the two Governments shall mutually assist one another to ensure its application with the necessary elasticity as circumstances shall require. The Bank of France and the Bank of England, acting for account of their respective Governments, shall maintain contact on all technical questions raised by the Agreement and shall collaborate closely on questions of exchange control affecting the two areas.

(iii) The French Government and the Government of the United Kingdom shall endeavour with the consent of the other interested parties—

(a) To make the francs which may be at the disposal of residents of the Sterling Area and sterling which may be at the disposal of residents in the Franc Area available for payments of a current nature to residents of countries not included in the Franc and Sterling Areas.

(b) To permit residents of countries not included in the Franc and Sterling Areas to use the sterling which may be at their disposal to effect payments of a current nature to residents of the Franc Area and francs which may be at their disposal to effect payments of a current nature to residents of the Sterling Area.

(iv) Notwithstanding that each of the two Governments shall be alone responsible for its monetary relations with third countries, they shall maintain contact wherever the monetary relations of the one affect the interests of the other.

VIII. All sterling transactions in the Franc Area and all franc transactions in the Sterling Area shall be settled on the basis of the official rate of exchange. The official rate (at present Frcs. 200=£1) may only be modified after mutual consultation.

IX. For the purposes of the application of the Financial Agreement dated this day and of the present Annex—

(i) The expression "Sterling Area" shall have the meaning assigned to it from time to time by the Exchange Control Regulations in force in the United Kingdom.

(ii) The expression "Franc Area" shall comprise the following territories:—
Metropolitan France (which includes Corsica and Algeria).
French West Africa.
French Equatorial Africa.
Madagascar and its dependencies.
Réunion.
French Somali Coast.
French Guiana.
Guadeloupe.
Martinique.
St. Pierre and Miquelon.
French Establishments in India.
Indo-China.
New Caledonia.
French Establishments in Oceania.
The Condominium of the New Hebrides.
The Protectorates of Morocco and Tunisia.
The French Mandated Territories of Cameroon and Togo.
Syria and Lebanon.

(iii) Notwithstanding paragraph (ii) above, the provisions of the Financial Agreement dated this day and of the present Annex shall only apply to Indo-China when the whole of its territory has been liberated.

(iv) The foregoing provisions shall not modify the existing arrangements under which the Condominium of the New Hebrides and the French Establishments in India which form part of the Franc Area defined in paragraph (ii) shall be regarded for certain purposes of exchange control as forming part of the Sterling Area.

(v) Settlements effected by the Government of any territory included in one of the two areas defined above shall be regarded as settlements effected by a resident of the said area.

[Enclosure No. 6 to despatch No. 24207 of July 11, 1945, from the Embassy at London, England]

Iraq No. 1 (1945)

8. AGREEMENT BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE IRAQI GOVERNMENT CONCERNING IRAQI FOREIGN EXCHANGE REQUIREMENTS FOR 1945, BAGDAD, 28TH MAY, 1945

Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty

INTRODUCTION

1. Since the 1st January, 1945, the control exercised on supply and shipping grounds by the Middle East Supply Centre over imports into the Middle East from all sources has been relaxed, although certain goods still continue to be programmed by the Middle East Supply Centre, either because they are in critically short supply or because they require considerable shipping space.

2. Although some goods should thus be more easily available, there remains, at the present time a shortage of certain currencies, the most important of which are United States Dollars, Canadian Dollars, Swiss Francs, Swedish Kronor and Portuguese Escudos. Payments made in these currencies by members of the sterling area must of necessity continue to be subject to some limitation. This control is exercised by the Governments of the countries concerned, in

whose interest it is to maintain the advantages of membership of the sterling area and to give the maximum support to sterling as the basic currency of the area.

3. Despite the shortage of the currencies specified above, His Majesty's Government sympathise with the Iraqi Government's desire to maintain an adequate flow of imports into Iraq during 1945 and appreciate that, to achieve this object, it will be necessary to obtain from outside the sterling area some imports for which payment will have to be made in these currencies.

4. Negotiations have accordingly taken place between His Majesty's Government and the Iraqi Government for an Agreement parallel to that signed by His Majesty's Government with the Egyptian Government on the 6th January, 1945[1] His Majesty's Government and the Iraqi Government have arrived at a programme of the reasonable requirements of Iraq for 1945 from the scarce currency areas, and it has been agreed to provide the Iraqi Government with scarce currencies for the purposes and in the amounts set out in Document No. 1 below. The total target figure for these requirements is the equivalent of £3,502,500.

5. A letter from the Iraqi Minister of Finance to His Majesty's Ambassador in Bagdad, signifying the Iraqi Government's approval of the Agreement and elucidating certain further points, is attached as Document No. 2.

DOCUMENT No. 1

1. In order to provide an adequate flow of imports to cover the essential requirements of Iraq His Britannic Majesty's Government will do all in its power to make available to Iraq goods from the United Kingdom.

2. His Britannic Majesty's Government will place at the disposal of the Iraqi Government in 1945 the amounts of scarce currencies set out in the following Articles and subject to the conditions therein stated.

3. For items included in the general import programme as set out in Appendix A—I.D.1,050,000.

The Iraqi Government may make such changes as it sees fit in the general import programme provided that this figure is not exceeded.

4. For certain special items as set out in Appendix B which on present information must be obtained from scarce currency countries—I.D.1,052,500.

In the event of any of these items becoming available from the sterling area or easy currency countries, or not being obtained from scarce currency countries the amount will be correspondingly reduced.

5. For the Iraqi Government's own departmental requirements procured through the Crown Agents or other departments of His Britannic Majesty's Government and not included in the general import programme.

It is impossible to give an accurate estimate of this amount, but the estimated figure on present information is I.D.200,000.

6. In order to provide a margin for expenditure in scarce currency countries—I.D.150,000.

This margin is intended to cover the following contingencies:—

(*a*) An average rise in prices in scarce currency countries up to 10 per cent. as measured by the United States Bureau of Labour wholesale price index for "Other Commodities," *i. e.*, excluding farm products and foods.

(*b*) Errors and omissions in the programme.

(*c*) A latitude to the Iraqi Government to allow for the import of additional quantities of essential items in the programme, or of new essential items should the supply and shipping position allow.

(*d*) To provide for small items now scheduled to come from non-scarce currency sources which may prove unobtainable from these sources.

7. For essential payments other than for goods—I. D. 150,000. It is recognized that this amount is to some extent governed by factors outside the control of the Iraqi Government. If, therefore, the total requirements under this head should exceed this figure it would be reconsidered. On the other hand, if the whole amount is not spent, the balance will not be made available for financing other payments, but will represent a saving in foreign exchange.

8. The requirements of the oil companies are not included in the above figure and it is understood that the necessary additional foreign exchange will be made good by His Britannic Majesty's Government.

9. It is agreed that the Iraqi Government will have the right to put forward a claim for an upward revision of the target figure and that such a claim will be taken into consideration in the following circumstances:—

[1] Egypt No. 1 (1945), Cmd. 6632.

(*a*) Should prices in the United States of America, as shown by the United States Bureau of Labour wholesale price index for other commodities, rise by more than 10 per cent.

(*b*) Should major items at present scheduled to come from non-scarce currency countries be obtainable at a saving in cost of over 10 per cent. from the scarce currency countries.

(*c*) Should it prove that one or more major items now scheduled to come from non-scarce currency countries are not so available and have to be obtained from scarce currency countries; provided that allowance shall first be made for any substantial adjustments in the reverse direction.

(*d*) Should it be shown that the local purchases by the Allied Forces require replacement from scarce currency countries.

(*e*) In the circumstances described in Article 7.

10. The British Government does not ask the Iraqi Government to place any special limit on its foreign exchange requirements for imports of goods from countries outside the sterling area, other than the scarce currency countries, on the understanding that the Iraqi Government limits this to imports to cover the real needs of Iraq and that other remittances will be subject to the general foreign exchange control regulations.

11. There may be certain imports for which no payment is required, either at the time of import or at any other time; such, for example, may be equipment provided free of charge for charitable or educational institutions, or equipment provided without payment or the creation of any claim for future payment by a foreign concern to its Iraqi subsidiary. It is understood that no value for such items will be set against the scarce currency amounts to be provided under this agreement.

12. The Iraqi Government will retain its exchange control and strengthen its import control in order to ensure that the scarce currencies at its disposal will only be utilised for the purchase of essential goods and for other essential purposes.

13. A joint Advisory Anglo-Iraqi Committee will be set up in order to examine any problems which may arise in connection with this agreement.

NOTE.—The following are scarce currencies for the purpose of this agreement:—

United States Dollars, Canadian Dollars, Swiss Francs, Swedish Kronor, and Portuguese Escudos.

General import programme (Appendix A)

	I. D.
Food, drink, and tobacco	27,990
Chemicals	80,752
Drugs and pharmaceuticals	100,000
Cork	1,320
Paper and cardboard	214,853
Second-hand clothing	50,500
Non-metallic minerals and manufactures	45,285
Metals and manufactures	59,547
Industrial machinery	150,000
Tools (hand)	8,000
Bicycles and spares	8,300
Miscellaneous	158,794
High-grade lubricating oils and grease	140,000
Low-grade lubricating oil	110,000
	1,104,541
Less 5 per cent (allowance for sterling freight and insurance)	55,217
	1,049,124

Special items (Appendix B)

Tinned fish, butter and milk, pyrethrum, &c.	7,500
Box-boards (Dates)	280,000
Timber (building)	150,000
Cotton piece-goods	1,115,000
Agricultural machinery	200,000
Motor vehicles, spares and tyres and tubes	200,000
	1,952,500

DOCUMENT No. 2

Text of Letter From the Iraqi Minister of Finance to His Majesty's Ambassador at Bagdad.

THE Iraqui Government has approved the attached agreement and schedule regarding the provision of scarce currencies during the calendar year 1945.

2. It is agreed that import licencing will be applied forthwith to imports from neighbouring non-sterling area countries, subject to the condition that open licences may be granted in respect of goods which are the produce of the neighbouring country from which they are imported. Should goods of scarce currency origin be imported under licence from neighbouring countries it is agreed that the value of such goods will be deducted from the relative scarce currency allocations provided in this agreement.

3. It is agreed that unlicenced imports will be confiscated, provided, however, that the Iraqi Government may compensate any person who may prove his title to goods and his *bona fides*. The amount of compensation would be either the sale proceeds or the established cost, whichever is less.

4. (a) The special Iraq dollar pool procedure hitherto in force, whereby United States Dollars acquired by Iraq were earmarked for her future use, will no longer apply, and Iraq will conform to the general principles of the sterling area, i. e., all foreign exchange (including United States Dollars) acquired by Iraq will be made over to the general pool held by His Britannic Majesty's Government on behalf of the sterling area, and Iraq's requirements of foreign exchange will be met from this pool.

(b) The allocations of scarce currencies for the import of goods which are subject to the limitations of the agreement are those in respect to import licences issued by the Iraqi authorities from the 1st January to the 31st December 1945, both inclusive, excluding, however, import licences issued in respect of items of 1944 import programme carrying Middle East Supply Centre priority, together with any liabilities incurred prior to the 1st January, 1945, arising from the purchase of military stores and services rendered by the military authorities.

5. The arrangements set out in this agreement are confined to the calendar year 1945 and are without prejudice to the Iraqi Government's freedom of action in the future and to its right to adhere to any such International Convention as that of Bretton Woods.

[Enclosure No. 3 to despatch No. 24507 of July 11, 1945, from the Embassy at London, England]

Egypt No. 1 (1945)

Correspondence Between His Majesty's Government in the United States and the Egyptian Government Concerning Egyptian Foreign Exchange Requirements for 1945, Cairo, 3rd/6th January, 1945

Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty

INTRODUCTION

During recent years imports into the Middle East have been limited by shortages of shipping and supply. This has necessitated detailed programming and control by the Middle East Supply Centre. Either because they remain in critically short supply or because they require considerable shipping space, certain goods will continue to be programmed by the M. E. S. C. in 1945; but a larger list of goods is being freed from such controls this year.

Although some goods should thus be more easily available, there remains at the present time a shortage of certain currencies, perhaps the most important of these being United States Dollars, Canadian Dollars, Swiss Francs, Swedish Kronor, and Portuguese Escudos. It is therefore necessary for Egypt, in common with the rest of the Sterling Area, to continue to limit imports which have to be paid for in these currencies. This control of imports is exercised by the Governments of the territories concerned.

Negotiations have accordingly been undertaken between His Majesty's Government and the Government of Egypt, the aim being to secure the objects set out

in an aide-mémoire handed to the Egyptian Minister of Finance on the 3rd November, 1944 (reproduced as Document No. 1 below). The negotiations proceeded between a group of British and Egyptian officials, and for convenience this group was formed into a Sub-Committee to report on these problems. Their recommendations are incorporated in three reports as follows:—

(1) A Report setting out the Egyptian requirements of scarce currency in 1945 for normal imports and invisible payments (excluding such bulk supplies as wheat and fertilisers) (Document No. 3 below). The total target figure, to which the Egyptian Government have agreed to adhere for these requirements, is the equivalent of £E10,000,000 in these currencies.

(2) A Report covering the measures which Egypt will take to strengthen her Exchange Control (Document No. 4 below).

(3) A Report covering the measures which Egypt will take to strengthen her import control (Document No. 5 below).

The recommendations in these Reports have been accepted by His Majesty's Government and by the Egyptian Government and the Reports form part of the agreement which has been concluded by an exchange of letters between the Egyptian Ministry of Finance and His Majesty's Embassy in Cairo (Documents Nos. 2 and 6 below).

The target figure agreed upon in the first of these Reports has been accepted as adequate to cover Egypt's real needs of scarce currencies. Whilst maintaining a certain measure of austerity in imports, particularly from these scarce currency sources, Egypt should be able to acquire more goods than in recent years, during which imports into the Middle East have been most drastically curtailed. But in comparison with 1938 her imports from countries outside the sterling area will continue to be limited, since in that year she imported £E.25,000,000 worth of goods from countries outside the area. This total includes imports from European countries which are not now open to trade.

To the target of £E.10,000,000 for normal supplies should be added: (*a*) up to £E.3,000,000 in respect of wheat, an exceptional and (it is hoped) non-recurrent supply to compensate for a failure of the harvest; (*b*) possibly a further sum for fertilisers if shipping conditions should necessitate supply from North America instead of from Chile. (The £E.2,000,000 mentioned in the report (Document No. 3) is not likely to be reached.)

Thus the two Governments have agreed on a figure for Egypt's reasonable requirements of scarce exchange for 1945. The British Government have agreed that this sum, namely the equivalent in these scarce currencies of £E.10,000,000, should be provided against Egyptian pounds or sterling. The Egyptian Government for their part have agreed to strengthen their controls in order to be in a position to keep within this target.

DOCUMENT No. 1

Aide-Memoire handed to the Egyptian Minister of Finance by the British Representatives

During the war the supply requirements of the Middle East have been, of necessity, closely controlled on shipping and supply grounds and have been programmed through the Middle East Supply Centre. As supplies become more plentiful throughout the world and shipping becomes easier, the possibility of relaxing these controls must be considered. At the same time, however, it is obvious that for financial reasons some control must remain.

2. Clearly, Egypt has great interest in the maintenance of the advantages and the freedom enjoyed by members of the sterling area and in giving the maximum support to sterling as the basic currency of the area. We have complete confidence in our future economic position. Our mobilisation for war has been at least as great as in any other allied country. In large part this has meant the construction of numerous wartime factories which will be available for conversion to the production of civilian goods. This will increase markedly our supply potential. Since our ability to supply goods will progressively increase there is solid ground for confidence in the strength of sterling against which this supply of goods will be available. The maintenance of this strength will be a main objective of our financial and economic policy.

3. We fully recognise the need for an adequate flow of imports to cover the real requirements of Egypt. We intend to do all that lies in our power to make

United Kingdom goods available although this will inevitably involve a continued sacrifice in the United Kingdom's own levels of consumption which have been drastically reduced in order to prosecute the war successfully. We feel sure that Egypt, as an ally of Great Britain, will also be very ready in our common interest to continue a measure of austerity until such time as conditions permit of a greater volume of supplies.

4. We must, however, ask and expect other countries which are also interested in the future value of sterling, not only to avoid making our task more difficult in the period which lies ahead, but actively to co-operate by taking all possible measures to avoid excessive expenditure outside the sterling area. As stated above, Egypt is vitally interested in the future value and purchasing power of sterling, and we therefore feel sure that the co-operation for which we ask will be fully forthcoming in Egypt's own interests.

5. We appreciate that in all probability the needs of Egypt for imports in 1945 can only be met with some net expenditure in countries outside the sterling area. Subject to the considerations discussed in paragraph 3, we are very ready to make available currency to pay for such imports, although we can only do so at the cost of increasing our own difficulties. But we can only offer to help in this way provided that Egypt on her side maintains an effective and adequate system of import and exchange control.

6. In the light of the above considerations, we should wish to discuss the reasonable requirements of Egypt for 1945. A convenient basis for this discussion might be the programme of imports already drawn up and agreed by the Egypto-Anglo-American Control of Imports Committee.

7. We do not propose to ask Egypt to agree at the present stage any firm programme for her imports except for two classes of goods—

(a) those requiring large shipping tonnage; and
(b) those in excessively short supply which will have to be programmed if supplies for Egypt are to be procured.

For these two classes the present programming procedure should clearly continue, but the composition of the classes may vary as supplies and shipping become easier. As to the rest, the Egyptian Government will no doubt wish, in exercising their own import control, to ensure that import licences are granted, in the first place, to essentials so that, where such essentials have to be procured outside the sterling area, the necessary foreign exchange is reserved for this purpose.

8. We should hope that, by considering the 1945 programme in this way and also the recent exchange control statistics of payments by Egypt outside the sterling area, it will be possible to arrive at an agreed target for expenditure outside the sterling area to which Egypt would work in the year 1945.

9. We shall be very ready to offer the Egyptian Government any advice or assistance they may wish for the purpose of aiding them to operate the Import Licensing and exchange control machinery in a manner necessary to keep within the target, and we suggest that, in the common interests of smooth working, it would be useful if the services of a British expert on import licensing machinery were made available to the Egyptian Government.

3rd November, 1944.

DOCUMENT No. 2.

Text of Note Verbale From the Egyptian Ministry of Finance to His Majesty's Embassy, Cairo.

3rd January, 1945.

THE Egyptian Ministry of Finance presents its compliments to the British Embassy and begs to conform arrangements which had been reached between representatives of the Egyptian and British Governments on the subject of Egypt's imports and exchange control in 1945.

It is hoped that these arrangements, which are set out in enclosed documents, will work to the mutual satisfaction of the two Governments during 1945.

It is clearly understood that the duration of these arrangements is confined to the year 1945, without of course prejudicing Egyptian Government's freedom of action in future. Nor do these arrangements prejudice the right of the Egyptian Government to adhere to any such international convention as that of Bretton Woods.

The Egyptian Ministry of Finance would add in conclusion that these arrangements, based as they are on common agreement, would provide clear evidence of Anglo-Egyptian collaboration and mutual confidence.

(Signed) MAKRAM EBEID,
(Minister of Finance on behalf of the Egyptian Council of Ministers.)

DOCUMENT No. 8.

Report of the Sub-Committee Set Up To Consider Egypt's Requirements of Hard Currency in 1945.

1. The Sub-Committee decided on the following procedure in order to arrive at the target figure for Egyptian foreign exchange expenditure in 1945 as set out in paragraph 8 of the aide-mémoire of the 3rd November, 1944.

2. In the first place the 1945 import programme was analysed and the quantities in this programme which it is anticipated will have to be supplied from the United States, Canada, Portugal, Switzerland, and Sweden estimated.

It is recognised that this programme is confined to civil and commercial requirements. The requirements of certain sponsored undertakings are not included, but provision is made for them under the invisible items in paragraph 6 below.

Nor does this programme cover all Egyptian requirements of foreign exchange since a number of special additional items (see below, paragraph 5) have to be procured; substantial invisible payments have to be made, and occasional special supplies of commodities such as wheat or fertilisers may, if made available, be procured from North America. It was considered convenient to study the problem in these separate groups in order to arrive at an overall picture.

3. Appendix A gives a summary of an analysis of the 1945 import programme showing what it is estimated will have to come from the United States, Canada, Portugal and Switzerland. From the summary to this schedule it will be observed that we estimated the c. i. f. value of these items at £E.6,339,000.

4. In the original programmes drawn up there are items which are likely to become available from the normal pre-war sources of supply during the course of 1945. Important amongst these are glass ware and sanitary ware. The Sub-Committee would recommend that these items be programmed quarterly so that the demand can be transferred to Europe as soon as supplies may be drawn from there. The quarterly value of the items under this heading amounts to approximately £E.185,000 and, for the purposes of estimating a target figure, it has been assumed that these supplies may be drawn from Europe only during the second half of 1945. On this basis the cost in dollars of these items during the first six months' programme would be £E.370,000. If these supplies were not available from Europe during the second half of 1945, the total dollar target would be correspondingly increased.

5. A number of items which are at present being centrally procured may, during the course of the year, revert to private trade. It is estimated that their cost would amount to approximately £E.880,000 in the full year, almost entirely from North America, as shown in Appendix B.

6. Payment for invisible imports must also be taken into consideration and, whilst the data for compilation of this figure are not fully adequate, it is suggested that these payments may total as much as £E.1,500,000. Appendix C gives the basis of this estimate.

7. The requirements in difficult currencies may therefore be summarised as follows:—

	£E.
(i) 1945 import programme (para. 3)	6,839,000
(ii) Imports programmed quarterly (para. 4)	370,000
(iii) Additional imports outside the programme (para. 5)	880,000
(iv) Invisibles (para. 6)	1,500,000
Grand total	9,589,000

From this there should be deducted an allowance for sterling freight and insurance on the goods imported. Again, it has been found extremely difficult to arrive at any statistical basis for this estimate since the cost of the article varies between £E.10 per kilogramme and £E.20 per ton. It is, however,

believed that an overall deduction of 10 per cent. will give an approximate result. In other words £E.800,000 may be deducted from the above figure leaving a target of £E.8,780,000.

8. The Sub-Committee have also considered the possibility of increased imports of spare parts and other equipment which may be urgently required from Switzerland and have agreed that a further amount of £E.200,000 should be added to the target for this purpose. No specified commodities are being entered in the programme for this purpose, it being generally understood that this sum would be used for essential machinery.

9. It has also been agreed that should any special supplies be provided for Egypt such as wheat and fertiliser these will not be counted as coming within the target figure up to which the Egyptian import and exchange control will work For purposes of record the British members of the Sub-Committee have pointed out that if 150,000 tons of wheat were provided from North America the total cost of this would be approximately £E.3,000,000 and if the total present programme of North American fertilisers were provided the cost might be £E.2,000,000. In the event of these fertilisers being arranged there is, therefore, a potential additional burden on the sterling area foreign exchange pool amounting to £E.5,000,000 and the global figure, including the £E.200,000 worth of Swiss francs, might reach approximately £E.14 million.

10. In considering the problem of establishing a target the Sub-Committee have had in mind the fact that supplies should not only become more readily available from the sterling area but also from other countries (particularly liberated Europe) during 1945. They have noted that during 1945, at least, the British Government would not ask the Egyptian Government to place a specific limit on their Foregin Exchange requirements for goods imported from these sources of supply. It is, of course, understood that this latitude will apply only to imports of the real needs of Egypt and that other remittances to these non-sterling area countries will be dealt with under the general foreign exchange control regulations. The Sub-Committee attach importance to this latitude as a means of meeting Egypt's requirements of essential goods.

11. It is agreed that for the first three categories set out in paragraph 7 the Egyptian import control may have freedom either to licence imports if shipping permits from sources other than those scheduled or to vary the commodities to be imported. In making such changes consideration will be given to the importance of meeting Egypt's essential needs and to the fact that certain commodities (see paragraph 7 (*b*) of the aide-mémoire of the 3rd November) must still be procured from certain specified loading areas. It is, of course, understood that the total target figure for expenditure in difficult currencies will not be varied by those changes.

12. It is recognised that the size of the invisible item is to some extent governed by facors which the Egyptian Government cannot control. If, therefore, the total actual requirements of foreign exchange under this head should exceed the target of £E.1,500,000, then global target should be reconsidered. Conversely, if the £E.1,500,000 is not reached, the remaining balance should not be used to finance any other part of the target, but will represent a saving in foreign exchange.

13. There may be certain imports for which no payment is required, either at the time of import or at any other time; such, for example, may be equipment provided free of charge for charitable or educational institutions, or equipment provided without payment or the creation of any claim for future payment by a foreign concern to its Egyptian subsidiary. It is understood that no value for such items will be set against the hard currency target.

14. The British Government has agreed to provide a margin of expenditure in hard currencies of £1,000,000 over and above the target. This margin is designed to cover the following contingencies:

(*a*) An average rise in prices in hard currency up to 10 per cent, as measured by the United States Bureau of Labour wholesale price Index for "Other commodities," *i. e.*, excluding farm products and foods.

(*b*) Errors and omissions in the programme.

(*c*) A latitude to the Egyptian Government to allow for the import of additional quantities of essential items in the programme, or of new essential items should the supply and shipping position allow.

(*d*) To take care of cases where small items now scheduled to come from non-hard currency sources may prove unobtainable from these sources.

15. It is agreed that the Egyptian Government will have the right to put forward a claim for an upward revision of the target figure and that such claim will be taken into consideration in the following circumstances:

(*a*) Should prices in the United States, as shown by the United States Bureau of Labour wholesale price index for other commodities, rise by more than 10 per cent.

(*b*) Should major items at present scheduled to come from non-hard currency sources be obtainable at a saving in cost of over 10 per cent. from the hard currency sources.

(*c*) Should it prove that one or more major items now scheduled to come from easy currency areas are not so available and have to be obtained from hard currency areas; provided that allowance shall first be made for any substantial adjustments in the reverse direction.

(*d*) Should it be shown that offtake by the Services local Purchasing Departments requires replacement from hard currency areas,

(*e*) In the circumstances described in paragraph 12.

16. It is recommended that a standing joint Anglo-Egyptian Committee be set up to meet at intervals to examine any problems which may arise in connection with the foregoing proposals.

APPENDIX "A."

Food, Drink	93, 857	Textiles [1]	140, 000
Tobacco	1, 448, 940	Non-Metallic	35, 075
Oils and Fats	2, 650	Base Metals	500, 520
Chemicals	690, 978	Machinery	1, 585, 500
Pharmaceuticals	170, 000	Miscellaneous	982, 210
Timber	447, 400		
Paper	698, 257		6, 838, 582
Hides	1, 800		

[1] Excluding cotton piece-goods.

Special items (on quarterly basis)

	Quantity per quarter	Value
Glassware, Domestic	75	12, 375
Glass, Window and Plate	1, 000	88, 000
Sanitary Ware	38, 125 pieces	100, 000

APPENDIX "B."

	£S.
Hops and Malt	225, 000
Truck and Cars	575, 000
Tyres and Tubes	225, 000
Textiles (if agreed to)	55, 000
	880, 000

APPENDIX "C."

INVISIBLE PAYMENTS TO CERTAIN COUNTRIES.

[Figures based on 9 months 1944 grossed to 12-months basis.]

	Film.	Int. dividends profits and other comml. payments.	£at '000. Travelling and maintenance.	Total.
United States	360	628	92	1, 075
Canada		29		29
Switzerland		305	70	475
				1, 579

DOCUMENT NO. 4

Report of Sub-Committee Set Up to Consider the Egyptian Exchange Control

1. The Committee reviewed, with the assistance of representatives of the National Bank of Egypt, the existing exchange control arrangements and, with a view of eliminating certain defects in the present system and with the object of assisting in the task of adhering to the target of expenditure in hard currencies during 1945, recommended the following measures:—

2. That a clause be added to article 2 of Law 100 of 1939 to provide that:—
(Translation from French:)

"The Minister of Finance is, further, authorised to prescribe such rules or measures as he shall consider necessary to govern all operations whether they are expressed in Egyptian or foreign moneys. This authorisation shall remain in force until the end of December, 1945."

Under this authority, the Minister of Finance would be enabled to deal with the matters which, in the opinion of the Committee, it was necessary to control. The main points requiring attention were:—

(i) To provide that permission must be obtained for the transfer of sterling in London to the account of a person resident outside the Sterling Area.

(ii) To provide that permission must be obtained in the case of the transfer of £E. in Egypt to the account of a person resident outside the Sterling Area.

It should be noted that it is necessary to provide that permission shall be required for the crediting of such accounts whether kept by banks or by traders.

(iii) To cover "Compensation Transactions," *i. e.*, to provide that permission must be obtained for any payment in Egypt "as consideration for or in association with" the making of a payment outside the Sterling Area, or acquisition of property outside the Sterling Area.

(iv) To provide that permission must be obtained for payments to be made from accounts in the names of persons resident outside the Sterling Area. Bankers may, however, make the following payments without such permission:—

(*a*) Payments in favour of a person resident in the Sterling Area.

(*b*) Payments in favour of a person resident in the same country as the account holder.

For example, £E. standing to the credit of a person resident in Switzerland are available for payment to any person resident within the Sterling Area, or for transfer to the account in Egypt of any other person resident in Switzerland.

(v) To cover the undertaking of future commitments. In order that persons in Egypt may not be able to evade the Exchange Control by undertaking to make payments to persons resident outside the Sterling Area at some future time, instead of applying for permission to make the payment now, it is necessary to lay down that the undertaking of such liabilities shall require permission.

The payments to be covered thereby are:—

(*a*) any payment in foreign currency other than Sterling;

(*b*) any payment in Sterling to the account of a person resident outside the Sterling Area;

(*c*) any payment in £E. to the account of a person resident outside the Sterling Area.

3. That a Military Proclamation be issued providing for the surrender against payment in £E. by persons resident in Egypt of their incomes in U. S. $, Canadian $, Swiss Francs, and perhaps other currencies as may appear desirable from time to time.

4. That a Military Proclamation be issued making the confiscation of unlicensed imports mandatory but providing that the Minister of Finance may compensate any person who may prove title to the goods and his *bona fides*. The amount of compensation would be either the sale proceeds or the established cost, whichever is the less.

5. That the Ministry of Finance would give the National Bank of Egypt all instructions necessary to achieve the above objects.

DOCUMENT No. 5.

Report of Sub-committee Set Up to Consider What Changes Were Necessary in Egyptian Import Licencing Machinery on the Cessation of the Activities of the Middle East Supply Centre as Regards Certain Goods.

1. Two main objectives before the Import Permit Department must be:—
   (*a*) To keep the the level of imports from hard currency areas to the agreed target figure set out in the report of this Sub-Committee on Egypt's needs of hard currency in 1945.
   (*b*) To ensure that the available hard currencies are used in order to procure Egypt's needs of essential goods.

2. Both these objectives involve the careful screening of import permits, in particular, in the case of (*a*), in order to ensure that, so far as possible, available hard currency is used for imports which cannot be obtained from other sources of supply. By means of such screening it should also be possible to ensure that, throughout the year sufficient hard currency shall be available for essential needs, including demands which may arise in the latter part of the year.

3. In order to assist in the achievement of these objectives, it is essential for the Licencing Department to be in possession, firstly, of up-to-date information regarding the availability of supplies from the different sources and, secondly, of means of deciding on the merits of particular applications. In this connection the British side offered, as an alternative to the suggestion in the aide-mémoire of the 3rd November, that the British Embassy would on request place freely at the disposal of the Licencing Department all available information regarding supplies and such other assistance as it might have available or could procure from sources such as the British staff of the M. E. S. C. (Egypt). It may be found convenient that this assistance be sought and tendered at a small working committee. The British side emphasised that they were offering advice and that the full responsibility for the issue of Licences and for adherence to the target would be that of the Egyptian Government. The Egyptian side stated that they welcome continued collaboration with the British experts which would be of great assistance to them. For their part they intended to take all possible administrative steps to ensure the common objectives including the reorganisation of the Import Licencing Department and the setting up of an all-Egyptian commitee, consisting of officials of the Ministries concerned, to deal with appeals and generally to supervise the work of the Department. The Egyptian side confirmed that the full responsibility for issue of licences and adherence to the target was theirs.

4. In order to assist in the compilation of statistics relating to the target, the Import Licencing Department will supply to the National Bank of Egypt and to the British Embassy particulars of licences issued, in such form and at such intervals as may be agreed. In order to enable the Import Licencing Department to ascertain which Licences have not been acted upon the Department will supply to the Bank daily such details of licences issued as may be necessary to enable the Bank to make a reconciliation between licences issued and exchange permits granted.

5. A secondary problem was to ensure that essential imports from easy currency areas should enjoy shipping priority over less essential goods. For this purpose it appeared desirable to introduce a system of classification of import licences according to essentiality so that, where this was practicable, loading areas would be able to ascertain Egypt's wishes as to priority of shipment.

DOCUMENT No. 6.

Text of Note Verbale From His Majesty's Embassy, Cairo, to the Egyptian Ministry of Finance.

6th January, 1945.

The British Embassy presents its compliments to the Royal Egyptian Ministry of Finance and acknowledges receipt of the Ministry's *note verbale* dated 3rd January, 1945, confirming arrangements which have been reached between representatives of the Egyptian and British Governments on the subject of Egypt's

imports and exchange controls in 1945 and enclosing three documents setting out these arrangements, namely:—

(1) report of sub-committee set up to consider Egypt's requirements of hard currency in 1945;

(2) report of sub-committee set up to consider Egyptian exchange control;

(3) report of sub-committee set up to consider what changes were necessary in Egyptian licensing machinery on the cessation of the activties of the Middle East Supply Centre as regards certain goods.

2. The Ministry will appreciate that, in making these arrangements, the Embassy is relying on the Egyptian Government, in Egypt's own interest and in the general interest of the sterling area, to make all the necessary arrangements for the efficient administration of import licensing and exchange control machinery.

It gives the Embassy satisfaction that it has been found possible to arrive at these understandings on the basis of common agreement.

(Signed) KILLEARN, *Ambassador.*

EXHIBIT XI

State Department memorandum: Conditional and unconditional most-favored-nation treatment

The Trade Agreements Act of 1934, as amended, requires the extension of trade-agreement rates to all countries but provides that the President may suspend the application of trade-agreement rates to the goods of any country either because of its discriminatory treatment of the commerce of the United States or because of other acts or policies which in his opinion tend to defeat the purposes of the act. For some time prior to the war (beginning October 15, 1935, after termination of our most-favored-nation commitment to that country), trade-agreement concessions were not extended to goods of Germany. The same was true with regard to Australian goods from August 1936 to February 1938, with which we had no such commitment. At present the trade-agreement rates (with the special exception of those in the agreement with Cuba) are extended to the goods of all countries, including such imports as are permitted to be exported from enemy countries now under the control of occupying forces.

The following lists give those countries with which the United States has treaties and executive agreements providing for unconditional and conditional most-favored-nation treatment in customs matters, and the countries with which we do not have such commitments, but which receive this treatment pursuant to the provisions of the Trade Agreements Act. The countries with which the United States has reciprocal trade agreements are also given in order to make the list complete so far as United States most-favored-nation commitments in customs matters are concerned.

COUNTRIES WITH WHICH THE UNITED STATES DOES NOT HAVE IN FORCE TREATIES OR AGREEMENTS PROVIDING, ON A MUTUAL BASIS, FOR MOST-FAVORED-NATION TREATMENT IN CUSTOMS DUTIES (JANUARY 15, 1947)

For the sake of convenience, this list of countries with which the United States does not have mutual most-favored-nation clauses as to customs duties is based on the List of Embassies and Legations in Washington, in the Diplomatic List issued by the Department of State for December 1946.

This list does not include three of the countries with which the United States is at war, Bulgaria, Germany, and Japan. Although an agreement signed August 18, 1932 (48 Stat. (pt. 2) 1793) providing for mutual most-favored-nation treatment as to customs duties was in force before the outbreak of war with Bulgaria, no attempt is made to indicate the effect which the war may have had on this agreement. However, it is anticipated that the question of the future application of prior treaties and agreements between the United States and Bulgaria will be dealt with in the peace treaty with Bulgaria. There were no such most-favored-nation treaties or agreements in force with Germany or Japan at the outbreak of war with those countries.

Although the trade agreement with Cuba signed August 24, 1934, and the agreement with the Philippines signed July 4, 1946, do not specifically provide for

general most-favored-nation treatment as to customs duties, they provide substantially for mutual most-favored-nation treatment and in addition also for preferential treatment, which is of limited duration under the agreement with the Philippines (arts. II and III, 49 Stat. (pt. 2) 3350 and 3561 (Cuba); art. I, and protocol, par. 1 (*e*) to (*h*), Department of State, press release 914, Dec. 18, 1946, pp. 1, 2, 14, and 15 (Philippines)).

The most-favored-nation provisions of the various treaties and agreements with countries not included in this list vary considerably in form and in some cases do not cover all the dependent areas under the sovereignty or protection of such countries. They are subject to usual protective exceptions such as those for the regulation of sanitary matters and the arms traffic, to some geographic exceptions, such as those of the United States for Cuba and the Philippines and that of Canada for other British dominions, and occasionally to other exceptions.

The countries in the list are:

Afghanistan.
Australia.
Austria,[1]
Czechoslovakia,[2]
Hungary,[3]
India.
Italy,[4]
Lebanon,[5]
New Zealand.
Panama.
Rumania,[6]
Spain,[7]
Syria,[8]
Union of South Africa.
Union of Soviet Socialist Republics.[9]

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[1] Although a treaty signed June 19, 1928 (47 Stat. (pt. 2) 1876), providing for mutual most-favored-nation treatment as to customs duties was in force before the German occupation of Austria, no attempt is made to indicate the effect which this occupation and the United States attitude toward it may have had on this treaty. However, it is anticipated that the question of the future application of prior treaties between the United States and Austria will be dealt with in the treaty of general relations with Austria.

[2] Although there is no treaty or agreement in force with Czechoslovakia providing for most-favored-nation treatment as to customs duties, the fact was recognized by notes exchanged November 14, 1946, that the United States and Czechoslovakia continue to accord such treatment to each other (numbered par. 6, 15, Department of State Bull. 1005).

[3] Although a treaty signed June 24, 1925 (44 Stat. (pt. 2) 2441), providing for mutual most-favored-nation treatment as to customs duties was in force before the outbreak of war with Hungary, no attempt is made to indicate the effect which the war may have had on this treaty. However, it is anticipated that the question of the future application of prior treaties between the United States and Hungary will be dealt with in the peace treaty with Hungary.

[4] Although an agreement signed December 16, 1937 (51 Stat. 361), providing substantially for mutual most-favored-nation treatment as to customs duties was in force before the outbreak of war with Italy, no attempt is made to indicate the effect which the war may have had on this agreement. However, it is anticipated that the question of the future application of prior treaties and agreements between the United States and Italy will be dealt with in the peace treaty with Italy.

[5] Although there is no treaty or agreement in force with the Lebanon providing for mutual most-favored-nation treatment as to customs duties, by an agreement of September 7 and 8, 1944 (58 Stat. (pt. 2) 1498), the Lebanon undertakes to recognise and continue the rights of the United States under the treaty signed April 4, 1924, with France relative to rights in Syria and the Lebanon, which in turn provides substantially that the United States shall receive in the Lebanon most-favored-nation treatment as to customs duties (art. 2, and art. 11, par. 1, of the mandate for Syria and the Lebanon recited in the preamble to the treaty, 43 Stat. (pt. 2) 1828 and 1824).

[6] Although an agreement signed August 20, 1930 (47 Stat. (pt. 2) 2593), providing for mutual most-favored-nation treatment as to customs duties was in force before the outbreak of war with Rumania, no attempt is made to indicate the effect which the war may have had on this agreement. However, it is anticipated that the question of the future application of prior treaties and agreements between the United States and Rumania will be dealt with in the peace treaty with Rumania.

[7] Although an agreement signed October 26 and November 7, 1927 (4 treaties, conventions, international acts, protocols, and agreements (Treuwith, 1928) 4644), providing substantially for mutual most-favored-nation treatment as to customs duties is in force with Spain, this agreement which extended a previous regime is interpreted by Spain as not applicable to concessions made after it entered into force on November 27, 1927.

[8] Although there is no treaty or agreement in force with Syria providing for mutual most-favored-nation treatment as to customs duties, by an agreement of September 7 and 8, 1944 (58 Stat. (pt. 2) 1491), Syria undertakes to recognise and continue the rights of the United States under the treaty signed April 4, 1924, with France relative to rights in Syria and the Lebanon, which in turn provides substantially that the United States shall receive in Syria most-favored-nation treatment as to customs duties (art. 2, and art. 11, par. 1 of the mandate for Syria and the Lebanon recited in the preamble to the treaty, 43 Stat. (pt. 2) 1828 and 1824).

[9] Although there is no treaty or agreement in force with the Union of Soviet Socialist Republics providing for mutual most-favored-nation treatment as to customs duties, by an agreement signed August 4, 1937, the United States accords to the Union of Soviet Socialist Republics such most-favored-nation treatment and in return the Union of Soviet Socialist Republics agrees to take steps to increase substantially the amount of its purchases in the United States (50 Stat. (pt. 2) 1610, currently in force through an agreement signed July 31, 1942, 56 Stat. (pt. 2) 1975).

Countries With Which the United States Has Commercial Treaties and Agreements Providing for the Grant of Most-Favored-Nation Treatment in Customs Matters[1]

List I.—*Treaties providing for unconditional most-favored-nation treatment*

Country	Effective date	Country	Effective date
Austria	May 27, 1931.	Liberia	Nov. 21, 1939.
China[2]	June 20, 1929.	Muscat[4]	Sept. 30, 1835.
Danzig	Mar. 24, 1934.	Norway	Sept. 18, 1932.
El Salvador	Sept. 5, 1936.	Poland	July 9, 1933.
Estonia	May 22, 1926.	Serbia (now Yugoslavia)	Nov. 15, 1882.
Finland[3]	Aug. 10, 1934.	Siam	Oct. 1, 1938.
Honduras	July 19, 1928.	Turkey	April 22, 1930.
Hungary[3]	Oct. 4, 1926.	Yugoslavia. (See Serbia.)	
Iraq	June 19, 1940.		
Latvia	July 25, 1928.		

[1] A commercial treaty providing for most-favored-nation treatment in customs matters, which by its terms will supersede this treaty, was signed on November 4, 1946, but has not yet entered into force.

[2] Moreover, the peace treaty signed with Finland on February 10, 1947, to which the United States is not a party and which is not yet in force, provides that for 18 months Finland shall grant unconditional most-favored-nation treatment in customs matters to each of the United Nations which grants similar treatment to Finland.

[3] The peace treaty signed with Hungary on February 10, 1947, which is not yet in force, provides that the United States will notify Hungary which prewar bilateral treaties with that country it desires to keep in force or revive. Moreover, this peace treaty also provides that for 18 months Hungary shall grant unconditional most-favored-nation treatment in customs matters to each of the United Nations which grants similar treatment to Hungary.

[4] This treaty provides that Muscat will grant most-favored-nation treatment in customs matters to the United States.

List II.—*Executive agreements (other than reciprocal trade agreements) providing for unconditional most-favored-nation treatment*[1]

Country	Effective date	Country	Effective date
Albania[2]	July 28, 1922.	Lithuania	July 10, 1926.
Bulgaria[3]	Aug. 18, 1932.	Rumania[3]	Sept. 1, 1930.
Chile	Feb. 1, 1938.	Saudi Arabia	Nov. 7, 1933.
Dominican Republic	Sept. 25, 1924.	Spain[5]	Nov. 27, 1927.
Egypt	May 24, 1930.	Syria[6]	Sept. 8, 1944.
Greece	Jan. 1, 1930.	Union of Soviet Socialist Republics[7]	Aug. 6, 1937.
Iran	May 10, 1928.	Yemen	May 4, 1946.
Italy[3]	Dec. 15, 1937.		
Lebanon[6]	Sept. 8, 1944.		

[1] The agreement with the Philippines, effective January 2, 1947, does not specifically provide for general most-favored-nation treatment as to customs matters; it provides substantially for mutual most-favored-nation treatment, and in addition also for preferential treatment as to customs duties for a specified period.

[2] Albania has indicated that it considered the most-favored-nation provisions of this agreement would be applied on a mutual basis, although they specifically refer only to Albania.

[3] The peace treaties signed with Bulgaria, Italy, and Rumania on February 10, 1947, which are not yet in force, provide that the United States will notify Bulgaria, Italy, and Rumania, respectively, which prewar bilateral agreements with those countries it desires to keep in force or revive. Moreover, these peace treaties also provide that for 18 months Bulgaria, Italy, and Rumania will grant unconditional most-favored-nation treatment in customs matters to each of the United Nations which grants similar treatment to Bulgaria, Italy, and Rumania, respectively.

[4] The agreements with the Lebanon and Syria provide that those countries will continue the rights of the United States, including most-favored-nation treatment in customs matters, under a prior treaty with France.

[5] This agreement, which extended a previous regime, has been interpreted by Spain as not applicable to concessions made after it came into force.

[6] In return for the most-favored-nation commitment of the United States, the Union of Soviet Socialist Republics has agreed to take steps to increase substantially the amount of Soviet purchases in the United States.

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[1] No attempt is made to indicate the effect which the war, or occupations of territory during or shortly before the war, may have had on some of these treaties and agreements. Moreover, no attempt is made to indicate the extent to which the most-favored-nation provisions cover the dependent areas of the countries involved or to list treaties and agreements containing such provisions applicable only to dependent areas. The most-favored-nation treatment is in each case granted on a mutual basis unless the contrary is indicated. The language of the most-favored-nation clauses varies considerably in form, and is ordinarily subject to usual protective exceptions, such as for sanitary matters, and in some cases to geographic exceptions.

LIST III.—*Reciprocal trade agreements containing the unconditional most-favored-nation clause*[1]

Country	Effective date
Argentina	Nov. 15, 1941.
Belgium (in force also with Luxemburg)	May 1, 1935.
Brazil	Jan. 1, 1936.
Canada	Jan. 1, 1939.
Columbia	May 20, 1936.
Costa Rica	Aug. 2, 1937.
Ecuador	Oct. 23, 1938.
El Salvador	May 31, 1937.
Finland	Nov. 2, 1936.
France (in force also with Monaco)	June 15, 1936.
Guatemala	Do.
Haiti	June 3, 1935.
Honduras	Mar. 2, 1936.
Iceland	Nov. 10, 1943.
Iran	June 28, 1944.
Liechtenstein. (*See* Switzerland.)	
Luxemburg. (*See* Belgium.)	
Mexico	Jan. 30, 1943.
Monaco. (*See* France.)	
Netherlands	Feb. 1, 1936.
Nicaragua [2]	Oct. 1, 1936.
Paraguay	Apr. 9, 1947.
Peru	July 20, 1942.
Sweden	Aug. 5, 1935.
Switzerland (also in force with Liechtenstein)	Feb. 15, 1936.
Turkey	May 5, 1939.
United Kingdom	Jan. 1, 1939.
Uruguay	Jan. 1, 1943.
Venezuela	Dec. 16, 1939.

[1] The trade agreement with Cuba, effective Sept. 3, 1934, does not specifically provide for most-favored-nation treatment in customs matters; it does provide substantially for most-favored-nation treatment and in addition also for preferential treatment.
[2] Substantial provisions of this agreement were terminated as of Mar. 10, 1938; most-favored-nation provisions remain in force.

LIST IV.—*Treaties and executive agreements providing conditional most-favored-nation treatment*

Country	Effective date
Argentina	Dec. 20, 1854.
Belgium	June 11, 1875.
Bolivia	Nov. 9, 1862.
Borneo	July 11, 1853.
Columbia	June 10, 1848.
Costa Rica	May 26, 1852.
Denmark	Apr. 26, 1826.
Ethiopia	Sept. 19, 1914.
Great Britain (also in force with Ireland)	July 3, 1815.
Ireland. (*See* Great Britain.)	
Paraguay	Mar. 7, 1860.
Portugal	June 28, 1910.

EXHIBIT XII–A

List of export associations filing papers with the Federal Trade Commission under the Export Trade Act (Webb-Pomerene law) as of March 31, 1947

American Hardwood Exporters, Inc., 601 Carondelet Bldg., New Orleans 8, La.
AMTEA Corp. (American Machine Tool Export Ass'n, Empire State Bldg., New York.
American Phonograph Cooperative, Ltd., 134 N. LaSalle St., Chicago, Ill.
American Provisions Export Co., % Armour & Co., Foreign Sales Dept., Union Stock Yards, Chicago 9, Ill.
American Soda Pulp Export Ass'n, 230 Park Ave., New York.
American Spring Mfgrs Export Ass'n, 30 Church St., New York 7, N. Y.
American Tire Mfgrs Export Ass'n, 30 Church St., New York 7, N. Y.
California Alkali Export Ass'n, 608 Latham Square Bldg., Oakland 12, Cal.
California Dried Fruit Export Ass'n, 1 Drumm St., San Francisco 11, Cal.
California Prune Export Ass'n, 1 Drumm St., San Francisco 11, Cal.
Carbon Black Export, Inc., 500 Fifth Ave., New York 18, N. Y.
Citrus Corporation of America, 424 Madison Ave., New York 22, N. Y.
Copper Exporters, Inc., 50 Broadway, New York.
Door Export Co., 1212 Washington Bldg., Tacoma 2, Wash.
Douglas Fir Export Co., 530 Henry Bldg., Seattle 1, Wash.
Durex Abrasives Corp., 68 Wall St., New York.
Fasco Lumber Ass'n, 821 Market St., San Francisco 3, Cal.
Electrical Apparatus Export Ass'n, 70 Pine St., New York 5, N. Y.
Electrical Export Corp., 122 E. 51st St., New York 22, N. Y.

Export Screw Ass'n of the United States, 21 Stevens St., Providence, R. I.
Flints Export Agency, 50 Broad St., New York
Florida Hard Rock Phosphate Export Ass'n, 318 E. Main St. (P. O. Box 67), Lakeland, Fla.
Flour Millers Export Ass'n, 350 National Press Bldg., Washington 4, D. C.
Friction Materials Export Ass'n, Inc., 22 E. 40th St., New York
General Milk Co., Inc., 10 Rector St., New York 6, N. Y.
Goodyear Tire & Rubber Export Co., The, 1144 E. Market St., Akron 16, Ohio.
Maine Sardine Packers' Export Ass'n, Eastport, Maine.
Metal Lath Export Ass'n, The, Room 1504, 205 E. 42d St., New York.
Motion Picture Export Ass'n, Inc., 546 Fifth Ave., New York.
Pacific Forest Industries, 1210 Washington Bldg., Tacoma 2, Wash.
Pacific Fresh Fruit Export Ass'n, 333 Pine St., San Francisco 4, Cal.
Pencil Industry Export Ass'n, 107 Wayne St., Jersey City 8, N. J.
Pipe Fittings & Valve Export Ass'n, The, 347 Madison Ave., New York 17, N. Y.
Potash Export Ass'n, Inc., 420 Lexington Ave., New York 17, N. Y.
Railway Car Export Corp. of America, 30 Church St., New York.
Redwood Export Co., 405 Montgomery St., San Francisco, Cal.
Rubber Export Ass'n, The, 1185 E. Market St., Akron 5, Ohio.
Steam Locomotive Export Ass'n, Inc., Room 1022, 30 Church St., New York 8, N. Y.
Sulphur Export Corp., 420 Lexington Ave., New York 17, N. Y.
Texas Rice Export Ass'n, 407 Jensen Drive, Houston 10, Texas.
Textile Export Ass'n of the United States, 320 Broadway, New York 7, N. Y.
Typewriter Mfgrs Export Ass'n, 1611 44th St., N. W., Washington 7, D. C.
United States Alkali Export Ass'n, Inc., 11 Broadway, New York 4, N. Y.
United States Scientific Export Ass'n, Inc., 50 Broadway, New York, N. Y
Universal Dairy Products Co., 80 E. Jackson Blvd., Chicago 4, Ill.
Walnut Export Sales Co., Inc., 540 Postal Station Bldg., Indianapolis 4, Ind.
Washington Evaporated Apple Export Ass'n, 700 First Ave., N., Yakima, Wash.
Wescosa Lumber Ass'n, Room 500, 2 Pine St., San Francisco 11, Cal.
Wine & Brandy Export Ass'n of California, 717 Market St., San Francisco 5, Cal.
Wire Rope Export Trade Ass'n, The, Room 2006, 19 Rector St., New York 6, N. Y.

Exhibit XII–B

[From the Board of Trade Journal, April 20, 1946]

Export Groups of the United Kingdom

The following is a list of Export Groups recognized by the Board of Trade. Groups which are known to have merged with Trade Associations have been omitted from the list as those bodies have been approached separately. Machinery has been listed together; with this exception the list is alphabetical.

Industry	Address
Abrasive Industries Export Group	Universal Works, Stafford. Tel.: Stafford 881.
Abrasive Papers and Cloths Export Group	Emery Trades Association, 29 & 30 Broad St. Avenue, London, E. C. 2. Tel.: London Wall 1005-6.
Accumulators Export Group	Grosvenor Gardens House, Grosvenor Gardens, S. W. 1. Tel.: Victoria 2299.
Aluminium Foil Export Group	Birmingham Chamber of Commerce, 95 New Street, Birmingham, 2. Tel.: Midland 8021.
Aluminium Hollow-ware Export Group	British Aluminium Hollow-ware Manufacturers' Assocn., 95 New Street, Birmingham, 2. Tel.: Midland 8021.
Antiquarian Books Export Group	c/o Antiquarian Booksellers' Association, 30 Great Russell Street, London, W. C. 1. Tel.: Museum 0942.
Antique & Art Dealers Export Group	Bank Buildings, 16 St. James's Street, London, S. W. 1. Tel.: Whitehall 4943.
Architectural Craftsmen's Export Group	607 Upper Richmond Road, Richmond, Surrey. Tel.: Prospect 6004.
Arc Welding Electrodes Export Group	36 Kingsway, London, W. C. 2. Tel.: Holborn 0502.
Artists' Colour Export Group	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 6031.

Industry	Address
Bag Frame and Bag Fittings Export Group	95 New Street, Birmingham, 2. Tel.: Midland 5021.
Bakers' Sundries Export Group	Dundee House, 15 Eastcheap, London, E. C. 3. Tel.: Mansion House 0672 or Hop 0351.
Bathroom Fittings Export Group	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 0031.
Beer Export Group	The Brewers' Society, 5 Upper Belgrave Street, London, S. W. 1. Tel.: Sloane 5216-7.
Bicycle and Motor Cycle Industrial and Export Group.	201 Warwick Road, Kenilworth, Coventry.
Black Bolt & Nut Export Group	25 Bennetts Hill, Birmingham, 2. Tel.: Midland 2901.
Boat Builders' Export Group	Messrs. Madox Hetier & Co., Ling House, 10-13 Dominion Street, London, E. C. 2. Tel.: National 3723/4.
Book Publishers' Export Group	The Publishers' Association, 26/30 Little Russell Street, London, W. C. 1. Tel.: Museum 0543.
Braces, Belts and Suspenders Export Group	3 Granby Street, Leicester. Tel.: Leicester 60171.
Bright Bolt & Nut Export Group	25 Bennetts Hill, Birmingham, 2. Tel.: Midland 2901.
Bright Steel Bar Export Group	Messrs. Peat, Marwick Mitchell & Company, 301 Glossop Road, Sheffield, 10. Tel.: Broomhill 63031.
British Industrial Measuring and Control Apparatus Manufacturers' Export Group.[1]	21 Tothill Street, London, S. W. 1. Tel.: Whitehall 6711.
British Ships' Bronze Propellers Export Group.	Oceanic House, Cockspur Street, London, S. W. 1.
Brush Export Group	80 Coleman Street, E. C. 2. Tel.: Monarch 4821.
Builders' Hardware Export Group	Birmingham Chamber of Commerce, 95 New Street, Birmingham, 2. Tel.: Midland 5021.
Bulb Growers' Export Group	The British Bulb Corporation Limited, 5 Broad Street, Spalding, Lincolnshire. Tel.: Spalding 2464.
Bullion and Precious Metals Export Group	78 Hatton Garden, London, E. C. 1. Tel.: Holborn 6089
Button, Buckle & Slide Manufacturers' Export Group.	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 0031.
Cake and Biscuit Manufacturers' Export Group.	7 Park Lane, London, W. 1. Tel.: Grosvenor 1819.
Chain Link Fencing Export Group	Messrs. Peat, Marwick Mitchell & Company, Williams Deacon's Bank Chambers, Sheffield, 1. Tel.: Sheffield 24511.
Chemical Traders' Export Group	The British Chemicals & Dyestuffs Traders' Association Ltd., 4 Lloyds Avenue, London, E. C. 3. Tel.: Royal 2788.
Chest Export Group	1/4 Great Tower Street, London, E. C. 3.
Children's Wear Export Group	32 Old Bond Street, W. 1. Tel.: Regent 0233.
China Clay Export Group	The British China Clay Producers' Federation Ltd., Barclay's Bank Chambers, St. Austell, Cornwall. Tel.: St. Austell 547.
Cider Export Group	22 Broad Street, Hereford. Tel.: Hereford 2178.
Clock Manufacturers' Export Group	Cricklewood Works, 317 Edgware Road, London, N. W. 2. Tel.: Gladstone 3333.
Closure Industry Export Group	8 Leicester Street, London, W. C. 2.
Collapsible Tube Manufacturers' Export Group.	Messrs. Fitzhugh, Tillett & Co., 101 Baker Street, W. 1. Tel.: Welbeck 5422.
Comb Manufacturers' Export Group	Federation of British Industries, 21 Tothill Street, London, S. W. 1. Tel.: Whitehall 6711.
Constructional Industries Export Group	82 New Cavendish Street, London, W. 1. Tel.: Langham 4041.
Constructional Steelwork Export Group	Messrs. Peat, Marwick Mitchell & Company, York Mansions, 94/98 Petty France, London, S. W. 1. Tel.: Abbey 1633
Cork Manufacturers' Export Group	Southern Cork Co., Ltd., Wadsworth Road, Perivale, Middlesex. Tel.: Perivale 1183.
The Cotton Board [2]	Midland Bank Buildings, Spring Gardens, Manchester, 2. Tel.: Blackfriars 2073.
Cutlery Export Group	Light Trades House, Melbourne Avenue, Sheffield, 10. Tel.: Sheffield 63364.
Domestic Hardware (Miscellaneous) Export Group.	Birmingham Chamber of Commerce, 95 New Street, Birmingham, 2. Tel.: Midland 5021.
Drapers' and Hosiers' (Wholesale) Export Group.	78 Cannon Street, London, E. C. 4. Tel.: City 4444.
Drawing Office Materials and Equipment Export Group.	69 Cannon Street, London, E. C. 4. Tel.: City 4444.
Dredger Spares Export Group	Messrs. Peat, Marwick Mitchell & Co., 301 Glossop Road, Sheffield, 10.
Dried Salted Fish Curers' Export Group	47 Naylor Street, Liverpool, 3. Tel.: North 2064.
Edge Tool Manufacturers' Export Group	Britannia House, St. Mary's Gate, Derby.
Edible Oil Export Group	Unilever House, Blackfriars, London, E. C. 4. Tel.: Central 7474.
Elastic Textile Export Group	3 Granby Street, Leicester. Tel.: Leicester 60171-2-3.

[1] Apparatus for industry and public works excluding electricity and domestic gas.
[2] It has been agreed that the functions which in other industries will be carried out by an Executive Committee of an Export Group will be discharged by the Cotton Board.

Industry	Address
Electrical Goods and Apparatus Export Committee[1]	36 Kingsway, London, W. C. 2. Tel.: Holborn 0502.
Electric Lamp Manufacturers' Export Group	15 Christchurch Park, Sutton Surrey. Tel. Vigilant 0079 S.
Electric Light Fittings Export Group	36 Kingsway, London, W. C. 2. Tel.: Holborn 0502.
Electric Vehicle Export Group	9 Savoy Hill, London, W. C. 2. Tel. Temple Bar 9434.
Electricity Meter Manufacturers' Export Group	Aldwych House, Aldwych, London, W. C. 2. Tel.: Holborn 2705.
Electro-plating, Polishing and Finishing Export Group.	5 Bennetts Hill, Birmingham, 2. Tel.: Central 8504.
Envelope Makers' and Manufacturing Stationers' Export Group.	Hatch End, Middlesex. Tel.: Hatch End 849.
Essence Export Group	98 Cannon Street, London, E. C. 4. Tel.: Waterloo 0166.
Expanded Metal Export Group	The Expanded Metal Co., Ltd., Burwood House, Caxton Street, London, S. W. 1. Tel.: Whitehall 1736.
File Trade Export Group	Light Trades House, Melbourne Avenue, Sheffield, 10. Tel.: Sheffield 62084.
Fine Art Trade Export Group	18 Grosvenor Street, London, W. C. 2. Tel.: Whitehall 2766.
Fine Chemical Export Group	Albright Wilson & Co., 12 Upper Belgrave Street, S. W. 1.
Fine Rathgutsbow Trades' Export Group	31-2 Dodge Row, London, E. C. 4.
Flax (Great Britain) Export Group	Messrs. J. & H. Pattullo & Donald, 1 Bank Street, Dundee, Scotland. Tel.: Dundee 8188.
Fresh Herring Export Group	Scotexport Ltd., 116 St. Vincent Street, Glasgow, C. 2. Tel.: Central 4402.
Furnishing Fabrics Export Group	Ship Canal House, King Street, Manchester, 2. Tel.: Deansgate 8474.
Fur Trade Export Group	Vintry House, Queen Street Place, London, E. C. 4. Tel.: Central 1199.
Gin Distillers' Export Group	4 St. Mary's Axe, E. C. 4. Tel.: Avenue 2184.
Glass Industry Export Group	68, High Holborn House, 52-54, High Holborn, W. C. 1.
Glue, Gelatine and Allied Export Group	62 Lincoln's Inn Fields, London, W. C. 2. Tel.: Holborn 2002.
Gramophone Records Export Group	Blythe Road, Hayes, Middlesex. Tel.: Southall 2068.
Graphite Products & Carbon Products Export Group.	The Morgan Crucible Co., Ltd., Battersea Church Road, London, S. W. 11. Tel.: Battersea 2270.
Greeting Cards & Calendars Export Committee.	Finsbury Chambers, 19 Finsbury Pavement, London, E. C. 2. Tel.: Metropolitan 4366.
Gunmakers' Export Group	Birmingham Chamber of Commerce, 75 New Street, Birmingham, 2. Tel.: Midland 6021.
Hacksaw Trade Export Group	Light Trades House, Melbourne Avenue, Sheffield, 10. Tel.: Sheffield 62084.
Hard Steel Wire Export Group	Peat, Marwick Mitchell & Co., 301 Glossop Road, Sheffield 10. Tel.: Ryonhill 6301).
Harness Furniture Export Group	Walsall & District Incorporated Chamber of Commerce, Walsall, Staffs. Tel.: Walsall 2792.
Hat Export Group	Crown Point, Denton, Manchester. Tel.: Denton 2201.
Hatters' Fur Export Group	1 Southwark Street, London Bridge, London, S. E. 1. Tel.: Hop 3031.
Hearth Furniture & Metalware Export Group.	95 New Street, Birmingham, 2. Tel.: Midland 6021.
Heating Appliances & Industrial Export Group.	9 Howard Street, Strand, London, W. C. 2. Tel.: Temple Bar 1314.
Hemp (Soft) Manufacturers' Export Group	New York Mills, Summerbridge, Harrogate. Tel.: Darley 37.
High Conductivity Copper & Alloys Export Group.	68/74 High Holborn, London, W. C. 1. Tel.: Chancery 8501 2-3.
Hollow-ware (Cast Iron) Export Group	Archibald Kenrick & Sons, Ltd., Ironfounders, West Bromwich. Tel.: West Bromwich 0219.
Insulated Conductors Export Group	High Holborn House (4th Floor), 52-54 High Holborn, London, W. C. 1. Tel.: Holborn 2701 & 7033 Ext. 17.
Ironfounders (Light Castings) Export Group	146 St. Vincent Street, Glasgow, C. 2. Tel.: Central 2801-3.
Sub-groups: Cooking Apparatus Group).	
Ironwork for Animal-drawn Vehicles Export Group.	c/o J. Brookhouse & Co., Ltd., 23 26 St. George Street, Hanover Square, W. 1. Tel.: Mayfair 3753.
Jewellery, Silver and Electro-plate & Allied Trades Export Group.	27 Frederick Street, Birmingham, 1. Tel.: Central 2607 and 93-94 Hatton Garden, E. C. 1.
Jute Industry Export Group	1 Bank Street, Dundee. Tel.: Dundee 2134.

[1] The following are sub-groups of the Electrical Goods and Apparatus Export Committee, their address is 36 Kingsway, London, W. C. 2. Tel.: Holborn 0502.

Sub-Group	Sub-Group	Sub-Group.
Commercial Electric Instruments & Instrument Transformers.	Electric Wiring Accessories.	Insulators & Insulations.
Conduit Fittings.	Electro Medical Appliances.	Portable Electric Tools.
Electric Water Heaters.	Fan and Fractional H. P. Motors.	Small Switch & Fuse Gear (up to 660 v. 500 a.).
	Heating, Cooking & Domestic Appliances.	X-ray Apparatus.

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Industry	Address
Knitting Pin Export Group	62 Oxford Street, London, W. 1. Tel.: Museum 0464.
Lace Export Group	Smithy Row, Nottingham. Tel.: Nottingham 2881.
Lace Finishing & Machine Export Group	30 Nelson Street, Newmilns, Ayr.
Laundry Blue Export Group[1]	7 Cavendish Square, London, W. 1. Tel.: Langham 1852.
Lead Sheet & Lead Pipe Export Group	Eagle House, Jermyn Street, W. 1.
Lead/Tin Capsules Export Group	High Holborn House, 49/51 Bedford Row, London, W. C. 1. Tel.: Chancery 7161.
Lead Traps & Bends Export Group	170 Hole Company, Ltd., 14 Britannia Street, Kings Cross, London, W. C. 1. Tel.: Terminus 6624.
Leather Cloth, Imitation Leather and Table Oilcloth Export Group	White Cross Mills, Lancaster (temporary). Tel.: Lancaster 270 & 3067.
Leather Footwear & Allied Industries Export Group	1 Cathedral Street, London, S. E. 1. Tel.: Hop 0900.
Light Edge Tool Export Group	17 Paradise Square, Sheffield.
Light Spring Export Group	Messrs. Peat, Marwick Mitchell & Company, 301 Glossop Road, Sheffield, 10. Tel.: Broomhill 68031.
Livestock Export Group	28 Russell Square, London, W. C. 1. Tel.: Museum 8726.
Lock and Allied Manufactures' Export Group.	The Midland Lock and Allied Manufacturers' Association, Chamber of Commerce, Metropolitan Chambers, Lichfield Street, Wolverhampton. Tel.: Wolverhampton 20038.
Locomotive Industry Export Group	82 Victoria Street, London, S. W. 1. Tel.: Victoria 7770.
Machinery:	
Agricultural Machinery & Implement Manufacturers' Export Group.	Finsbury Circus House, Bloomfield Street, London, E. C. 2.
Bearing Manufacturers' Export Group	Messrs. Peat, Marwick Mitchell & Co., 1 Ironmonger Lane, London, E. C. 2.
Boiler Furnace Export Group	Messrs. McClelland Ker & Co., 120 St. Vincent Street, Glasgow. Tel.: Central 7385.
Boilers (Shell Type) Export Group	Messrs. Jones, Crewdson & Young, 7 Norfolk Street, Manchester. Tel.: Deansgate 4077.
Boilers (Water Tube) Export Group	14 Old Square, Lincoln's Inn, London, W. C. 2. Tel.: Holborn 9638.
British Typewriter Export Group	c/o Imperial Typewriter Co., East Park Road, Leicester. Tel.: Leicester 27801.
Cement Machinery & Metalliferous Mining Machinery Export Group.	Messrs. Peat, Marwick Mitchell & Co., York Mansions, 94/98 Petty France, London, S. W. 1. Tel.: Abbey 1653.
Compressed Air Engineering Export Group.	Messrs. Peat, Marwick Mitchell & Co., York Mansions, 94/98 Petty France, London, S. W. 1. Tel.: Abbey 1653.
Electrical Machinery Export Committee[2]	36 Kingsway, London, W. C. 2. Tel.: Holborn 0502.
Fans & Ancillary Equipment Industrial and Export Group.[3]	2 Howard Street, Strand, London, W. C. 2. Tel.: Temple Bar 1314.
Filling Machinery Manufacturers' Export Group.	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 663.
Filtration and Silencing Export Group[3]	Messrs. Peat, Marwick Mitchell & Co., York Mansions, 94/98 Petty France, London, S. W. 1. Tel.: Abbey 1161.
Foundry Equipment Export Group	Messrs. Peat, Marwick Mitchell & Co., York Mansions, 94/98 Petty France, London, S. W. 1.
Gear Manufacturers' Export Group	c/o David Brown & Sons, Ltd., Wellington House, Strand, London, W. C. 2.
Industrial Lubricating Appliances Export Group.	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 663.
Iron, Steel and Metal Works Equipment Export Group.	Messrs. Peat, Marwick Mitchell & Co., York Mansions, 94/98 Petty France, London, S. W. 1. Tel.: Abbey 1653.
Laundry Engineers' Export Group	3/5 Clive Court, Maida Vale, W. 9.
Marine Boilers Export Group	Messrs. McClelland Ker & Co., 120 St. Vincent Street, Glasgow. Tel.: Central 7385.
Materials Handling Export Group	Messrs. Peat, Marwick Mitchell & Co., York Mansions, 94/98 Petty France, London, S. W. 1. Tel.: Abbey 1801.
Paint Ink & Allied Trades Machinery Export Group.	26 Portland Place, London, W. 1. Tel.: Langham 3121.
Plantation Machinery Export Group	Messrs. Peat, Marwick Mitchell & Co., York Mansions, 94/98 Petty France, London, S. W. 1. Tel.: Abbey 1829.
Precision Chain Industrial Export Group.	Renold Works, Didsbury, Manchester. Tel.: Heaton Moor 2231.

[1] The Laundry Blue Export Group also covers rice-starch and ultramarine.

[2] The following are Sub-groups of the Electrical Machinery Export Committee:

Sub-group	Sub-group	Sub-group
A. C. & D. C. Motor and Generator.	Heavy and Medium Switchgear.	Steam Turbine, Turbine Reduction Gear, Turbine-driven Generator Condenser, Turbo-blower and Compressor.
Electric Furnace.	Mercury Arc Rectifier.	
Electric Traction Equipment.	Motor Starting and Control Gear.	Water Turbine.
Electric Welding Equipment.	Power Transformers.	
Electrode Water Heaters & Steam Raisers.	Static Condenser.	

[3] This Group covers Heating, Ventilating, Air-conditioning and Dust Extraction Plant.

[3] This Group does not include Water Purification and Feed Water Filters.

Industry	Address
Machinery—Continued	
Printing Machinery and Allied Industries Export Group.	Cliffo 's Inn, Fleet Street, London, E. C. 4. Tel.: Holborn 9010.
Roadmaking Machinery and Contractors' Plant Export Group.	Messrs. Binder, Hamlyn & Co., River Plate House, 12/13 South Place, London, E. C. 2. Tel.: Monarch 1403.
Roll Makers' Export Group	Messrs. Peat, Marwick Mitchell & Co., 18 Bennetts Hill, Birmingham, 2.
Rubber & Plastics Machinery Export Group.	Messrs. Peat, Marwick Mitchell & Co., Midland Bank Building, Spring Gardens, Manchester. Tel.: Deansgate 3047.
Sewage Disposal Machinery Export Group.	32 Victoria Street, London, S. W. 1.
Shoe Machinery and Accessories Manufacturers' Export Group.	Court Chambers, Friar Lane, Leicester. Tel.: Leicester 20262.
Silo Machinery and Export Group	P/O Box 31, Stockport.
Steam Engine Industrial and Export Group.	36 Kingsway, London, W. C. 2. Tel.: Holborn 0502.
Steam Raising Plant Accessories Export Group.	14 Old Square, Lincoln's Inn, London, W. C. 2. Tel.: Holborn 9838.
Sugar Machinery Export Group	Messrs. Mann, Judd, Gordon & Co., 142 Vincent Street, Glasgow. Tel.: Central 8563.
Textile Machinery and Accessories Industrial Export Group [6]	445/6 The Royal Exchange, Manchester. Tel.: Blackfriars 2991. 34 Victoria Street, London, S. W. 1. Tel.: Abbey 1331.
Underground Mining Machinery Export Group.	Messrs. Peat, Marwick Mitchell & Co., 301 Glossop Road, Sheffield, 10. Tel.: Sheffield 60018.
Valve Export Group	32 Victoria Street, S. W. 1.
Water Purification Plant Export Group.	Messrs. Peat, Marwick Mitchell & Co., 94/98 Petty France London, S. W. 1. Tel.: Abbey 1820.
Weighing Machine & Testing Machine Export Group.	5 Bennetts Hill, Birmingham, 2. Tel.: Midland 6044-5.
Winding Engine Export Group	36 Kingsway, London, W. C. 2. Tel.: Holborn 0502.
Woodworking Machinery Export Group.	Victoria House, Southampton Row, London, W. C. 1. Tel.: Holborn 4667-8.
Machine Knife and Allied Trades Export Group.	Light Trades House, Melbourne Avenue, Sheffield, 10. Tel.: Sheffield 63084.
Machinery Belting Fasteners Export Group	Messrs. Hannaford & Co., Aldwych House, Aldwych, London, W. C. 2. Tel.: Holborn 8245.
Magnesia Export Group	The Washington Chemical Co., Washington Station, Co. Durham. Tel.: Low Fell 76028.
Malleable Castings Export Group	c/o National Association of Malleable Ironfounders, Tudor House, Bridge Street, Walsall, Staffs. Tel.: Walsall 2722.
Mantle and Costume Manufacturers' Export Group.	32 Old Bond Street, W. 1. Tel.: Regent 0232.
Margarine and Compound Export Group	21 Lime Street, London, E. C. 3. Tel.: Central 7251.
Mechanical Cloth Export Group	20 Market Street, Bury.
Metal Accessories for Corsets, Braces, Garters etc. Export Group.	A. C. Palmer & Co., Court Chambers, Friar Lane, Leicester 20262.
Metallic Bedstead Export Group	8 Waterloo Street, Birmingham, 2 Tel.: Midland 5524.
Musical Instrument Manufacturers' Export Group.	7/10 Frederick Close, Stanhope Place, Connaught Square, London, W. 2. Tel.: Paddington 7686.

[6] The following are Sub-groups of the Textile Machinery and Accessories Export Group:

Sub-group	Address
1. Cotton, Woollen & Worsted Preparation and Spinning, Combing, Doubling and Winding Machinery.	445/6 The Royal Exchange, Manchester. Tel.: Blackfriars 2991.
2. Weaving Preparation Machinery, Looms, Dobbies and Jacquards.	445/6 The Royal Exchange, Manchester. Tel.: Blackfriars 2991.
3. Bleaching, Dyeing, Printing & Finishing Machinery.	445/6 The Royal Exchange, Manchester. Tel.: Blackfriars 2991.
4. Jute, Flax & Hemp Spinning & Weaving.	445/6 The Royal Exchange, Manchester. Tel.: Blackfriars 2991.
5. Hosiery Machinery	Leicester & County Chamber of Commerce, 8 Granby Street, Leicester. Tel.: Leicester 60171-2-3.
eral Textile Accessories	445/6 The Royal Exchange, Manchester. Tel.: Blackfriars 2991.

Industry	Address
National General Export Merchants' Group[9]	London Chamber of Commerce, 69 Cannon Street London, E. C. 4. Tel.: City 4444.
Needles, Fish Hooks, Fishing Tackle and Allied Industries Export Group.	16 Unicorn Hill, Redditch. Tel.: Redditch 43.
Office Appliances and Equipment Export Group.[10]	Office Appliance Trades Association of Great Britain & Ireland, 4 St. Bride Street, E. C. 4. Central 4537.
Oil Burning Devices (Domestic) Export Group.	Birmingham Chamber of Commerce, 95 New Street, Birmingham, 2. Tel.: Midland 5021.
Ophthalmic Optical Export Group	69 Cannon Street, London, E. C. 4. Tel.: City 4444.
Paint Industry Export Group	Tavistock House (South), Tavistock Square, London, W. C. 1. Tel.: Euston 2573.
Paper Board & Allied Industries of Great Britain & Ireland Export Group.	c/o Paper Makers' Association of Great Britain and Ireland, Melbourne House, Aldwych, Strand, London, W. C. 2. Tel.: Temple Bar 6278.
Paper Converters' Export Group	1 St. Paul's Churchyard, London, E. C. 4. Tel.: City 2367.
Paper Machine Wire Manufacturers Export Group.	Messrs. Thomson McLintock & Co., 216 West George Street, Glasgow, C. 2. Tel.: Douglas 2501.
Pencil Export Group	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 6031.
Pencil (Mechanical) Manufacturers' Export Group.	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 6031.
Perambulator, Invalid Carriage and Nursery Furniture Export Group.	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 6031.
Perforated Metal Export Group	58 Victoria Street, London, S. W. 1. Tel.: Victoria 4963.
Perfumery and Toilet Preparations Export Group.	69 Cannon Street, London, E. C. 4. Tel.: City 4444.
Pest Control Chemical Export Group	166 Piccadilly, London, W. 1. Tel.: Regent 1557.
Pharmaceutical Export Group	Tavistock House (South), Tavistock Square, W. C. 1. Tel.: Euston 4581.
Photographic Industry Export Group	Messrs. Peat, Marwick, Mitchell & Co., 94/98 Petty France, S. W. 1. Tel.: Abbey 8376.
Pianoforte Industries Export Group	49 Twyford Avenue, East Finchley, London, N. 2. Tel.: Tudor 4011.
Pin and Allied Trades Export Group	Messrs. Frank Impey & Co., Lombard House, 144 Great Charles Street, Birmingham, 3. Tel.: Central 2073.
Plier, Pincer & Nipper Export Group	Association of United Kingdom Plier Manufacturers, 28 Summer Row, Birmingham, 3. Tel.: Central 1290.
Polish Manufacturers' Export Group	7 Cavendish Square, London, W. 1. Tel.: Mayfair 2285.
Pottery Industry Export Group	c/o British Pottery Manufacturers' Federation, Federation House, Stoke-on-Trent. Tel.: Stoke-on-Trent 48031.
Power Transmission Machinery Export Group.	Messrs. Peat, Marwick, Mitchell & Co., York Mansions, Petty France, S. W. 1.
Precision Steel Tube Export Group	21-23 High Street, Birmingham, 3.
Printers' Export Group	11 Bedford Row, London, W. C. 1. Tel.: Chancery 6004.
Proprietary Remedies Export Group	42 Gordon Square, London, W. C. 1. Tel.: Euston 3527.
Pumps Export Group	Messrs. Peat, Marwick Mitchell & Co., York Mansion, 94/98 Petty France, London, S. W. 1. Tel.: Abbey 1033.
Rail & Telegraph Accessories Export Group	25 Bennetts Hill, Birmingham, 2. Tel.: Midland 2901.
Railway Brakes & Signals Industrial and Export Group.	82 York Way, Kings Cross, London, N. 1. Tel.: Terminus 6432.
Railway Carriage and Wagon Accessories Export Group.	Messrs. Peat, Mrawick Mitchell & Co., 1 Ironmonger Lane, London, E. C. 2. Tel.: Monarch 3970.

[9] The National General Export Merchants' Group embraces the following Merchants' Groups

	Address
Birmingham	Birmingham Chamber of Commerce, 95 New Street, Birmingham, 2. Tel.: Midland 5021.
Glasgow	Glasgow Chamber of Commerce, 30 George Square, Glasgow. Tel.: Central 8583.
Liverpool	Chamber of Commerce, Liverpool. Tel.: Central 0321.
London	London Chamber of Commerce, 69 Cannon Street, London, E. C. 4. Tel.: City 4444.
Manchester	Manchester Chamber of Commerce, Manchester. Tel.: Deansgate 5574.

[10] The following are Sub-groups of the Office Appliances and Equipment Export Group:

Sub-group	Address
1. Office Machinery of all types	O. A. T. A., Powers-Samas House, Holborn Bars, E. C. 1.
2. Stationery	Percy Jones (Twinlock) Ltd., 37 Chancery Lane, London, W. C. 2. Tel.: Chancery 8971.
3. Steel Furniture and Steel Scientific Seating.	Tan-Sad Chair Co. (1931) Ltd. Avery House, Clerkenwell Green, E. C. 1.
4. Carbons, Ribbons and Stencils	Kolok Manufacturing Co. Ltd., Rochester Works, Tarrif Road, Tottenham, N. 17. Tel.: Tottenham 3316.

Industry	Address
Railway Carriages and Wagons Export Group.	Messrs. Peat, Marwick Mitchell & Co., 1 Ironmonger Lane, London, E. C. 2. Tel.: Monarch 3970.
Railway Springs Export Group	Peat, Marwick, Mitchell & Co., 301 Glossop Road, Sheffield. Tel.: Broomhill 63031.
Railways Points & Crossings Export Group	Messrs. Macnee & Co., 3 Victoria Street, London, S. W. 1. Tel.: Abbey 5547.
Railway Tyre, Axle & Wheel Manufacturers' Export Group.	Messrs. Peat, Marwick Mitchell & Co., 301 Glossop Road, Sheffield, 1. Tel.: Broomhill 63031.
Reinforcement Manufacturers' Export Group.	Messrs. Wenham Bros & Co., High Holborn House, 49/51 Bedford Row, London, W. C. 1. Tel.: Chancery 7161-2.
Rubber Industry Export Group	c/o the Institute of the Rubber Industry, 12 Whitehall, London, S. W. 1. Tel.: Whitehall 5012.
Rubber Stamp & Kindred Trades Export Group.	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 6031.
Safety Razor and Safety Razor Blades Export Group.	Light Trades House, Melbourne Avenue, Sheffield, 10. Tel.: Sheffield 63084.
Saw Trade Export Group	Light Trades House, Melbourne Avenue, Sheffield, 10. Tel.: Sheffield 63084.
Scientific Instruments and Appliances Export Group.	Woolstanton Hall, Lebotwood, Shrewsbury.
Scythe, Sickle and Hook Export Group	Light Trades House, Melbourne Avenue, Sheffield, 10. Tel.: Sheffield 63084.
Sheffield Hollow Drill Steel Manufacturers' Export Group.	Messrs. Peat, Marwick Mitchell & Co., 301 Glossop Road, Sheffield. Tel.: Broomhill 63031.
Shoe Grindery, Small Nail and Tack Export Group.	Sun Building, Bennetts Hill, Birmingham, 2. Tel.: Midland Midland 6044-5.
Soap Export Group	Wood Street, Bebington, Cheshire. Tel.: Rock Ferry 2000. Ext, 538.
Solid Woven Belting Export Group	Jones, Crowdson & Youatt, 7 Norfolk Street, Manchester, 2. Tel.: Deansgate 4677.
Sports Equipment & Appliances Export Group.	Room 113, 329 High Holborn, London, W. C. 2.
Stainless Steel Fabricators' Export Group	Birmingham Chamber of Commerce, 95 New Street, Birmingham, 2. Tel.: Midland 6021.
Stainless Steel Manufacturers' Export Group.	Wharncliffe House, 44 Bank Street, Sheffield, 1. Tel.: Sheffield 23243.
Stationers' Sundries Export Group	National Union of Manufacturers, 39 Bennetts Hill, Birmingham, 2. Tel.: Central 6040.
Steel Castings Export Group	Messrs. Peat, Marwick Mitchell & Co., 301 Glossop Road, Sheffield, 10.
Steel Hinge Export Group	c/o United Hinges Ltd., Spon Lane, Smethwick. Tel.: West Bromwich 0363.
Steel Pen Export Group	Rubery & Co., Bennetts Hill, Birmingham, 2. Tel.: Midland 6044.
Steel Rolling Shutter Export Group	Messrs. Peat, Marwick Mitchell & Co., 94/98 Petty France, London, S. W. 1. Tel.: Abbey 1820.
Steel Wire Rope Export Group	Messrs. Peat, Marwick Mitchell & Co., 301 Glossop Road, Sheffield. Tel.: Broomhill 63031.
Steel Wool Export Group	Federation of British Industries, 21 Tothill Street, London, S. W. 1. Tel.: Whitehall 8711.
Surgical Dressings & Adhesive Strappings Export Group.	5 Neptune Street, Hull. Tel.: Hull 15037.
Surgical Instruments & Appliances Export Group.	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 6031.
Telephone & Telegraph Apparatus Export Group.	137 Victoria Street, S. W. 1. Tel.: Victoria 8016.
Textile Smallwares Export Group	Britannia House, 567 St. Mary's Gate, Derby. Tel.: Derby 2605.
Tinware Export Group	95 New Street, Birmingham, 2. Tel.: Midland 6021.
Toy and Fancy Goods Export Group	93/6 Hatton Garden, London, E. C. 4. Tel.: Holborn 4820.
Transparent Cellulose Wrapping Export Group.	Messrs. Peat, Marwick Mitchell & Co., Midland Bank Buildings, Spring Gardens, Manchester, 2. Tel.: Deansgate 3947-8.
Wallpaper Export Group	The Wallpaper Manufacturers' Association, Victoria Mills, Holmes Chapel, Nr. Crewe. Tel.: Holmes Chapel 131.
Wheelbarrow Manufacturers' Export Group.	Birmingham Chamber of Commerce, 95 New Street, Birmingham, 2. Tel.: Midland 6021.
Whisky Export Group	5 Abercromby Place, Edinburgh. Tel.: Edinburgh 32261.
Wireworkers' Export Group	95 New Street, Birmingham, 2. Tel.: Midland 6021.
Women's Fashions Export Group	Morley House, 314 Regent Street, London, W. 1. Tel.: Langham 4130.
Wool Textile Industry Export Group	Commerce House, Bradford. Tel.: Bradford 11916.
Wringers, Washing Machines & Carpet Sweepers Export and Home Group.	National Union of Manufacturers, 6 Holborn Viaduct, London, E. C. 1. Tel.: City 6031.

SHIPPING ON PROHIBITED LIST

VESSELS AGAINST WHICH DISCRIMINATION IS BEING EXERCISED BY ECONOMIC WARFARE DEPARTMENT

(*a*) *Shipowners on the Statutory List.*—Shippers, banks and other financial and commercial concerns are hereby notified that the following vessels belong to owners who are included in the Statutory List, and that it is an offence against the Trading with the Enemy Act for any shipper to make use of such vessels. Shipments by such vessels in addition to being liable to seisure render the shippers or those connected with the consignment liable to prosecution.

Vessel	Flag	Tons	Owners or charterers
Almagro	Argentina	282	A. M. Delfino y Cia.
Atelta	Ditto	105	La Portena Empresa de Remolcadores.
Ciclope	Ditto	173	Ditto.
Coloso	Ditto	247	Ditto.
Gigante	Ditto	236	Ditto.
Goliat	Ditto	237	Ditto.
Hercules	Ditto	173	Ditto.
Presidente Mitre	Ditto	372	Cia Argentina Comercia e Industrial de Pesqueria.
Presidente Roca	Ditto	412	Ditto.
Samson	Ditto	237	La Portena Empresa de Remolcadores.
San Martin	Ditto	220	A. M. Delfino y Cia.
San Cayetano	Ditto	400	"Cardimex" Comp Argentina de Importacion y Exportacion S. A.
Titan	Ditto	188	La Portena Empresa de Remolcadores.
Alcora	Ditto	216	Cia Comercial Maritima de Transportes S. A.
Antares	Ditto	----	Ditto.
Barcia	Ditto	241	Navales Barcia-Manolo Barcia.
Blanco de C	Ditto	285	Ramon Carranza.
Canopus	Ditto	399	Cia Comercial Maritima de Transportes S. A.
Car melita	Ditto	117	Jeronimo Tipland (effective owner).
Crespi (ex Jose Trujillo)	Ditto	338	Cia Comercial Maritima de Transportes S. A.
Delfina Barcia	Ditto	74	Navales Barcia-Manolo Barcia.
Lea	Ditto	96	Ditto.
Linette	Ditto	398	Cia Comercial Maritime de Transportes S. A.
Maninos	Ditto	114	Navales Barcia-Manolo Barcia.
Mari Carmel L	Ditto	389	Cia Comercial Maritime de Transportes S. A.
Maribel	Spain	398	Ditto.
Miguel Caldenty	Ditto	74	Juan Mora A. Boti.
Norte	Ditto	26	Jesus Franquesa (Nom owner).
Nuestra Senora de la Almudena	Ditto	41	Otto Gerotzen.
Olga	Ditto	94	Navales Barcia-Mando Barcia.
Paco	Ditto	300	Jose Leon Carranza.
Paco Nino	Ditto	30	Ramon Carranza.
Plenela II	Ditto	75	Cia Comercial Maritima de Transportes A. S.
Polar	Ditto	----	Ditto.
Procyon	Ditto	399	Ditto.
Reina Victoria	Ditto	162	Ramon Carranza.
Rigel (ex Tercio Montejurra)	Ditto	549	Cia Comercial Maritima de Transporets S. A.
Salvador	Ditto	130	Christina Suardias.
San Juan II	Ditto	552	Ditto.
San Vicente	Ditto	40	Ramon Carranza.
Ara	Sweden	2,680	Arafart A/B.
Arabert	Ditto	2,840	Rederi A/B Solstad.
Arabitt	Ditto	1,992	Arafart A/B.
Aralias	Ditto	2,680	Ditto.
Arnavall	Ditto	2,900	Rederi A/B Solstad.
Araton	Ditto	----	Arafart A/B.
Atlantiden	Ditto	9,650	Rederi A/B Atlantiden.
Granada	Ditto	1,781	Arafart A/B.
Granskar	Ditto	1,000	Battjaast A/B.
Knut	Ditto	1,040	A/B Svenska Hamburglinjen.
Nase	Ditto	1,160	Ditto.
Nordanbris (ex Follux)	Ditto	8,971	Rederi A/B Bellatrix.
Ostbris	Ditto	978	Ditto.
Skansen	Ditto	744	Ephorning Kemiskt-Tekniskt A/B.
Sunnanbris	Ditto	8,731	Rederi A/B Kricus.
Tom	Ditto	2,103	Arafart A/B.
Westbris	Ditto	979	Rederi A/B Kricus.

Location	New, or extension	Area	Starting date for building	Estimated completion date	Estimated employment		
					M	F	Total
Tynemouth	New	15,000 sq. ft.	5.12.45	31.7.46	.....	60	60
Thornaby	Extension	18,000 sq. ft.	.....	.....	32	10	42
Thornaby	Extension	6,860 sq. ft.	.....	.....	5	45	50
Washington	Extension	260,000 sq. ft.	8.11.45	1947	100	.....	100
Washington	New	13,000 sq. ft.	.....	.....	90	10	100
Washington	New	144,000 sq. ft.	.....	.....	20	180	200
West Auckland	Extension	61,400 sq. ft.	22.11.45	10.8.46	.....	700	700
West Auckland	Extension	5,000 sq. ft.	.....	.....	.....	30	30
West Auckland	New	24,000 sq. ft.	.....	Complete.	150	150	300
West Hartlepool	New	26,500 sq. ft.	26.3.46	30.11.46	100	300	400
Willington Quay	Extension	12,000 sq. ft.	.....	.....	75	.....	75
Wilton	New	2,000 acres	11.3.46	.....	10,000	.....	10,000

Amendments to List of Export Groups

The following Groups should be added to the list of Export Groups of the United Kingdom published in the *Board of Trade Journal* on April 20:—

Food Machinery Industrial and Export Group, 26 Portland Place, London, W.1.

Sub-Groups

1. Bakery and Biscuit Plant.
2. Brewing and Mineral Water Machinery.
3. Canning Machinery.
4. Chocolate and Sugar Confectionery Machinery.
5. Dairy Equipment.
6. Food Machinery (Miscellaneous).
7. Grain Machinery.

Holloware (Wrought Steel) Export Group, Chamber of Commerce, 95 New Street, Birmingham, 2. Telephone: Midland 5021.

Lead Oxide Export Group, Messrs. Thomson McLintock & Co., 1 Oxford Court, Cannon Street, London E. C. 4. Telephone: Mansion House 8231.

Linen Industries Export Group, 7 Donegall Square West, Belfast.

White Lead Export Group, Messrs. Thomson McLintock & Co., Granite House, Cannon Street, London, E. C. 1.

Printing Ink Export Group, % Federation of British Printing Ink Manufacturers, Aldwych House, London, W. C. 1.

The following are corrected addresses:—

Aluminium Foil Export Group, % Fitzhugh Tillet & Co., 101 Baker Street, London, W. 1. Telephone: Welbeck 1727.

Bearing Manufacturers' Export Group, Messrs. Peat, Marwick, Mitchell & Co., 11 Ironmonger Lane, London, E. C. 2. Telephone: Royal 8288.

Chain Link Fencing Export Group, 301 Glossop Road, Sheffield, 10.

Children's Wear Export Group, 60 Cannon Street, London, E. C. 4. Telephone: City 4444.

Edge Tool Manufacturers' Export Group, Martin's Bank Chambers, Market Place, Derby. Telephone: Derby 469.

Gear Manufacturers' Export Group, % Messrs. Alfred Wiseman & Co., Ltd., Glover Street, Birmingham, 9.

Leather Cloth, Imitation Leather and Table Oilcloth Export Group, White Cross Mills, Lancaster. Telephone: Lancaster 270.

Mantle and Costume Manufacturers' Export Group, 69 Cannon Street, London, E. C. 4. Telephone: City 4444.

Railway Carriage and Wagon Accessories Export Group, Messrs. Peat, Marwick, Mitchell & Co., 11 Ironmonger Lane, London, E. C. 2. Telephone: Monarch 3970.

Railway Carriages and Wagons Export Group, Messrs. Peat, Marwick, Mitchell & Co., 11 Ironmonger Lane, London, E. C. 2. Telephone: Monarch 8970.

Textile Smallwares Export Group, 36 Derby Street, Leek, Staffs. Telephone: Leek 800.

Fine Chemical Export Group, Victoria Station House, Victoria Street, S. W. 1.

The Paint Ink and Allied Trades Machinery Export Group has now been absorbed by the British Chemical Plant Manufacturers Association, which operates from 26 Portland Place, London, W. 1. Telephone: Langham 3121.

EXHIBIT XIII

[Reprint from The Journal of Political Economy, vol. LIV, No. 3, June 1946]

EXPERIENCE UNDER INTERGOVERNMENTAL COMMODITY AGREEMENTS, 1902–45

(By Joseph S. Davis)

Intergovernmental commodity agreements were seriously considered at the World Monetary and Economic Conference in London in June–July, 1933, primarily as means to facilitate recovery from severe economic depression. The role of such agreements in the postwar world was an important issue at the United Nations Conference on Food and Agriculture at Hot Springs in May–June, 1943. During this decade and subsequently, able minds have wrestled with relevant problems of principle, policy, and practice, and some approach to a consensus is in process of being hammered out. This subject will be on the agenda of the International Conference on Trade and Employment, which is proposed to be held in 1946.[1]

Experience with multilateral intergovernmental commodity agreements (conveniently abbreviated "I. C. A.'s") has been limited rather than extensive. On the whole, it has yielded more warnings than promise. But so varied have been the types and the degrees of success that this body of experience merits scrutiny. Only scant reference to it appears in the valuable books in which the International Labour Office published a collection of relevant documents, together with an introductory review of the literature (through early 1943) and an analysis of the problems of international commodity control.[2] The tea-, tin-, and rubber-control authorities each subsequently published an extensive review of its operations over a decade. These I. C. A.'s and a few others have been more or less intensively analyzed by various scholars. Enough ignorance and misunderstanding nevertheless persist, even in quarters usually well informed, to warrant the presentation of an orderly summary of I. C. A. experience to the end of 1945.

In the sense here used, an I .C. A. is an agreement on a specific commodity or closely related group of commodities, chiefly foodstuffs and primary materials, made by two or more participating governments or with their approval and cooperation, involving study of the international aspects of the commodity and/or some form of regulation of its trade, production, and/or prices. I. C. A.'s are to be distinguished from (*a*) unilateral national commodity controls of great variety; (*b*) highly specialized bilateral intergovernmental agreements, involving one or a few specific commodities; (*c*) bilateral or multilateral intergovern-

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[1] U. S. Department of State, *Proposals for Expansion of World Trade and Employment* (Pub. 2411 [November, 1945]).

[2] *Intergovernmental Commodity Control Agreements* (Montreal, 1943), hereinafter cited as "I. L. O., *I. C. A.'s*." Works by J. W. F. Rowe; W. Y. Elliott and others; R. H. Wallace and L. R. Edminster; and C. R. Whittlesey are outstanding in the I. C. A. literature reviewed by the I. L. O. and not specifically cited in this article. Most of the commodities here dealt with are considered, for the most part briefly, in the numerous "case studies" in Ervin Hexner, *International Cartels* (Chapel Hill, N. C., 1945), which reached the present author while this manuscript was in the hands of the editors.

mental agreements covering many commodities and/or commercial policy and practice; and (*d*) international cartel agreements among two or more business concerns.

I. C. A.'s are most conveniently discussed in three groups. The first group comprises I. C. A's for tin, tea, and rubber, which were the most significant and, on the whole, the most successful. The second group includes I. C. A.'s for three agricultural products—wheat, sugar, and coffee—which are often spoken of as tending to be in "chronic surplus." The third group, quite heterogeneous in character, includes most of the oldest I. C. A.'s, as well as a few very recent ones.

Tin, Rubber, and Tea I. C. A.'s

The most important I. C. A.'s concern tin, rubber, and tea. All arose from dicer groups, whose influence continued so powerful that all three are not infrequently but misleadingly called "cartels." All were under Anglo-Dutch leadership. Each involved only a few governments and producing areas. The latter were chiefly Empire dependencies in southeastern Asia, which had fallen into grave distress in the great depression. In the three cases many of the problems were similar—indeed, to some extent overlapping—and there was a good deal of interlocking of interests and personnel. These factors contributed heavily to the degree of success attained.

Parties to these agreements included no governments of net-importing countries as such, although the mother-countries, Britain and Holland, were net importers of all three commodities. The tea agreement, indeed, owed its success partly to the fact that Great Britain, with Empire interests in tea production, predominates in tea consumption. The rubber-manufacturing industries of the United States—the largest user of crude and reclaimed rubber—and of European countries were accorded limited opportunities for advisory participation in the Rubber Regulating Committee's deliberations. The tin agreements of 1937 and 1942 belatedly included similar provisions; but as early as 1934 the International Tin Committee had set up a "consumers' panel," representing industrial consumers of tin in the United States and the United Kingdom.

Tin

The first intergovernmental arrangement for tin was the Bandoeng Pool, formed in February, 1921, by the governments of the Federated Malay States (F. M. S.) and the Netherlands Indies, to buy up to 20,000 tons of excess tin supplies which had accumulated in tin-producing regions and to hold them until tin prices had recovered.[8] In retrospect, it appears to have provided a sort of organized liquidation of a wartime commodity surplus, of which the British-Australian Wool Realisation Association (B. A. W. R. A.) was a better contemporary example. The tin so acquired was disposed of in the period from April, 1923, to December, 1924, at a substantial profit to the participants, on the rising market that accompanied flourishing industrial activity in 1923 and 1924.

The Bandoeng Pool's operations, however, helped to obscure the tendency for world absorption to tin to run ahead of output capacity. When this became evident, in 1925-26, tin prices soared. High prices, together with declining costs accompanying technological improvements, greatly overstimulated expansion of producing capacity. Even at the peak of world tin absorption in 1928 and 1929, stocks accumulated and prices declined. Under these circumstances, shrinkage of demand in the severe recession of 1929–31 drove tin prices down sharply.

Meanwhile, the process of financial combination expanded greatly in tin mining and tin smelting, with British, Dutch, and Bolivian (Patiño) interests predominating. The Anglo-Oriental Mining Corporation, Ltd., was the largest single factor. It led in forming the Tin Producers Association (T. P. A.), founded in 1929. In 1929–30 the T. P. A. fostered a voluntary restriction scheme, which met with increasingly wide cooperation, except in the F. M. S. As conditions grew worse, even the more reluctant governments of the F. M. S. and the Netherlands Indies accepted the idea of an international output-restriction plan, which became effective March 1, 1931.

[8] This pool is discussed in K. E. Knorr, *Tin under Control* ("Food Research Institute, Commodity Policy Studies," No. 8 [Stanford University, Calif., 1945]), pp. 75–77, which provides the fullest discussion of the successive tin agreements. The subject is covered much more briefly, from the viewpoint of the tin control, in *International Tin Control and Buffer Stocks* (London: Tin Producers' Assoc., [1944]).

The first chairman of T. P. A. was Sir Philip Cunliffe-Lister—since 1935, Lord Swinton. Long prominent in British business and government circles, he has been chairman of the United Kingdom Commercial Corporation since 1920, was president of the Board of Trade in 1924–29 and 1931 and colonial secretary in 1931–35, and has been active in various commodity-control schemes and related policies for many years. Sir John Campbell, economic and financial adviser to the British Colonial Office in 1930–42, presided over the London conference at which the first tin agreement was adopted and has since been chairman of the administrative body, The International Tin Committee. He later became chairman of the International Rubber Regulation Committee (1934–44) and the International Sugar Council (1937——) and served as a member of the International Tea Committee (1933——).

The International Tin Control Scheme of 1931 was an international producers' scheme with the form of an intergovernmental agreement. The original parties were the British dependencies Malaya and Nigeria, the Netherlands East Indies, and Bolivia. Siam (later renamed "Thailand") was soon brought in. Initially planned for two years, it was first extended and then replaced by a three-year agreement, effective January 1, 1934. To this, five other governments adhered on July 10, 1934. When the second agreement expired in 1937, it was replaced by a third five-year agreement, signed by seven countries. The most matured form of the agreement was signed September 7, 1942, to be effective in 1942–46. In form this was an agreement among the four governments of Belgium, Bolivia, the Netherlands, and the United Kingdom. There were several supplementary agreements concerning details in the main agreements, buffer stocks, and tin research.[4]

The avowed objectives of the tin-control scheme are typically expressed in some such form as the following excerpt from the preliminary paragraph in the 1942 agreement:

". . . it is necessary and advisable that steps should be taken to regulate the production and export of tin in and from producing countries with the object of keeping world stocks at a normal figure, adjusting in an orderly manner supply to demand, while at the same time making available all the tin that may be required and preventing rapid and severe oscillations of price. . . ."

The controllers' review of their operations puts the case for international tin control thus:

"Apart from important ancillary activities such as statistical research and development bureaus, the main functions of the International Tin Committee have been to prevent the excessive accumulation of stocks, and to maintain an ample supply of Tin at a reasonable price. . . .

"Tin Control not only serves the interests of producers. It arises from the complementary needs of consumers and producers. A reasonable and stable price is required by both. Tin being a commodity for which demand is exceptionally inelastic, a reduction in price, however severe, does not lead to any increase in consumption and the result must be to make many producers suspend operations. When demand recovers, the rise in prices will be all the sharper for the fact that many mines are out of production.

"Tin Control has removed these dangers and its advantages to consumers have never been more fully demonstrated than in time of war. If the industry's productive capacity had not been maintained in times of depression, how would it have been possible to build up those great reserves without which the loss of the Eastern producing areas would have been a crippling blow? Without the price stability given by regulation this capacity would not have existed.

"After the war Tin Control will have equally important functions to perform. The maintenance of world prosperity demands that the work of primary producers shall be kept remunerative. The Tin Industry is ready to play its part, and the machinery of control remains in existence to meet the needs of the post-war world."

Throughout its life the tin control has operated through changing export quotas, expressed as percentages of agreed "standard tonnages," for the participating exporting countries. Coupled with restrictions on the size of tin stocks in those countries, these entailed production curtailment enforced by the local governments. Initially, the quotas set by the control committee were subject to the consent of the signatory governments, but this was soon dispensed with. The governments stood ready to take the measures necessary to give

[4] All these agreements are reprinted in I. L. O., I. C. C. A.'s, pp. 73–103.

effect to the committee's decisions. Quotas were fixed with a view to influencing stocks in importing countries and, thereby, tin prices in the world markets. At various times, beginning in August, 1931, specially controlled "buffer stocks" were acquired to prevent disastrous price declines; these were subsequently released after the pressure had disappeared. In 1940 and 1941, agreements were made between the control committee and United States government agencies on the building of American stock piles of tin, with terms designed to insure "orderly" liquidation of such reserves. Since early in 1942, after the Japanese conquests in the southwest Pacific, the tin control has been relatively inactive.

Critical studies of the tin-control experience, before and during the present war, do not bear out the insiders' view as to its achievements, though the scheme has supporters in trade and industry circles in the United States. It was clearly successful in preventing excessive accumulation of tin stocks, in keeping tin prices generally remunerative even to high-cost tin producers, and in preventing the liquidation of such concerns and the contraction of tin-mining plants that were threatened at certain periods. There was no serious attempt to readjust excessive productive capacity. Production outside the participating countries rose, and research on tin substitutes was stimulated, but neither went far enough to break down the control. It stands out, however, as the clearest example of a monopolistic restrictionist scheme, backed by the governments of leading producing countries, exploitive of processors and ultimate consumers, and inadequately responsive to the interests of either group. On the whole, tin prices were maintained at levels unreasonably high, and various opportunities were taken to push them higher. Except in a two-year period ending late in 1935, price stability was not achieved. At most, the speculative peak in tin prices in 1937 was less striking than in prices of some other basic materials, such as copper, rubber, and wool. Even with the aid of buffer stocks and, from 1937 on, with some liberalization of permitted mine-head stocks of tin concentrates, supplies of tin were maintained at levels too low and were not released fast enough to meet important changes in demand. Radical changes in export quotas made tin production highly unstable. The restrictions were applied in such ways as to raise total average costs and to hinder normal expansion of low-cost production.

RUBBER

The International Rubber Regulation Agreement (I. R. R. A.) of 1934 was devised in the depths of the great depression to cope with the economic disasters that engulfed the rubber-plantation industry in southeastern Asia.[8] Of its several forerunners, the most important was the so-called Stevenson Plan, which was in force for six years, beginning November 1, 1922. When the Netherlands government decided against co-operating, this was put into operation as a British scheme applicable to British Malaya and Ceylon, with the support of their governments and with the voluntary co-operation of British plantation owners in the Netherlands Indies. It operated through export restrictions, enforced by prohibitive export duties, designed to raise prices to a "pivotal" figure. Export quotas were automatically adjusted according to price changes, on a basis that was revised at the end of April, 1926, after the wildest fluctuations in rubber prices. From almost every standpoint the Stevenson Plan worked very badly, and it is now held in low repute. The high prices of rubber, for which it was heavily responsible, overstimulated new planting of higher-yielding trees that had just come into production when consumption fell off in the depression. The high prices also greatly stimulated increased output and consumption of reclaimed rubber, which continued as an important factor in supplies.

The I. R. R. A. of 1934 and its very similar successor agreement of 1938 brought under regulation the production and export of rubber from all the rubber-growing areas in southeastern Asia, where nearly all the world's natural rubber was produced. The participating governments were the British, Indian, Dutch, French, and Siamese, and complementary legislation by British, Dutch, and French dependencies was involved.

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[8] *The History of Rubber Regulations, 1934–43*, edited by Sir Andrew McFadyean for the International Rubber Regulation Committee (London, 1944), gives a fairly detailed interpretative account, with relevant documents and an annotated list of members of the controlling committee (pp. 177–86). Relevant documents are readily accessible in I. L. O., *I. G. O. A.'s*, pp. 104–8, 178–80. The experience is carefully analyzed in K. H. Knorr, *World Rubber and Its Regulation* ("Food Research Institute, Commodity Policy Studies," No. 6 [Stanford University, Calif., 1945]).

The avowed objectives of the I. R. R. A. were very similar to those for tin. The basic implicit objective was to prevent liquidation of estate companies in consequence of the very low rubber prices—which, in turn, were due to surplus output capacity coupled with extreme weakness of demand for rubber—and to hold in check the gradual encroachment of lower-cost native producers. Toward these ends the scheme involved immobilizing part of the producing capacity, freezing the status quo between estate and native producers by means of production quotas and restricting new planting and replanting.

A second implied objective was to permit regular and "fair" profits to investors in rubber estates. Such profits had been nonexistent or small for several years prior to 1934. For a longer period they had been irregular because of the volatility of the rubber market, since neither supply nor consumption responded readily to price changes. To meet this situation, the I. R. R. A. provided for flexible regulation of exports so as to permit liquidation of excessive stocks and to improve the level and stability of prices.

The few participating governments gave their support because of the influence of their investors, the concern of governments in correcting depression in the producing areas, and the national interest in getting larger sales returns from rubber to raise their international purchasing-power.

The scheme succeeded in achieving its two basic purposes, with one exception: It did not prevent substantial fluctuations in rubber prices and profits, though it faced no test comparable in severity with the violent recession of 1929–32. The failure to achieve the stability objective was due, in part, to the short-term unresponsiveness of rubber consumption and supplies to price changes and, in part, to the fact that stocks were kept at a relatively low level in order to keep prices fairly high. In the 1937 boom, prices ran up very high because export quotas were not raised soon enough. The influence of rubber manufacturers and of the United States government, expressed both indirectly and through the advisory panel of the regulating committee, helped to prevent such exploitation of consumers as occurred under the contemporary tin control and the earlier Stevenson Plan for rubber. But the theory and practice of the control were such as to give rise to criticisms only less severe than in the case of the tin control.

The tasks of the International Rubber Regulation Committee (I. R. R. C.) were extremely onerous. They did much to improve the statistical basis for the decisions they had to take. They took counsel at their meetings not only with the advisory panel but with outside persons. Most decisions were reached without formal voting—in fifty-eight meetings over a period of nine years only three votes were taken. Even so, experience showed it impossible to make reliable forecasts of world rubber absorption in a period of months in the future. Unpredictable political, as well as economic, factors and changes in rubber-stocks policies in the principal consuming countries constituted disturbing influences. Proposals for buffer stocks were repeatedly considered but never adopted, although Professor van Golderen, the Dutch delegate who was vice-chairman of the I. R. R. C., as well as of the International Tin Committee, until his death in 1938, was vice-chairman of the League of Nations Committee on Raw Materials (1937) and one of the two members who drew up its rather favorable memorandum on buffer stocks.[*] A modest step in this direction, which came into very limited use late in 1938, permitted estates of one hundred acres and over to carry larger stocks than formerly, up to one-fourth of their allotted standard production.

The I. R. R. C.'s own review of its experience is marked by a good deal of candor and restrained enthusiasm. The scheme worked, though by no means perfectly. It was profitable to the estate producers and to the rubber-producing countries. It was least successful in preventing undesirable instability of prices, and one effort to promote a new use of rubber was thwarted thereby. It made little contribution to the long-run adjustment of capacity and supply to demand—especially difficult in the case of a commodity whose cost of production has tended downward and for which there are large potential demands. Relative prosperity under regulation gave the industry the financial means to experiment and, in a very limited way, to promote improved methods of cultivation. To that extent the I. R. R. C. is correct in asserting that control contributed to the industry's efficiency. However, by suspending competition, regulation also blunted the drive toward increased efficiency and obscured the need for it even when its

[*] Partially reprinted in I. L. O., *I. C. C. A.'s*, pp. 137–89.

achievement is painful. The industry's most striking improvements in efficiency came not under regulation but under conditions of free competition and distress.

As a matter of deliberate policy, the voting members of the I. R. R. C. were government representatives not primarily interested in rubber production, but these were mostly civil servants or diplomatis amid a group of businessmen from producing and exporting companies. The committee pioneered in enlisting and encouraging the aid of proximate consumers of the regulated commodity. American rubber manufacturers were reasonably satisfied with the functioning of the I. R. R. C. but have continued opposed, in principle, to such regulation schemes. After the outbreak of war in Europe, the I. R. R. C. continued to function with major modifications necessitated by war conditions. Between May, 1940, and December, 1941, it made four agreements with United States agencies (Reconstruction Finance Corporation and Rubber Reserve Corporation) for the building of special United States reserves of natural rubber. With the Japanese conquest of southeastern Asia, its role necessarily became largely passive. The subsequent great development of synthetic-rubber production in the United States and the indisposition of the American government to make firm commitments for the future of rubber control led to the formal termination of the I. R. R. A. on April 30, 1944. Since then, international discussions of current and future rubber problems have been conducted under the auspices of the British, Dutch, and American governments; and a Rubber Study Group, which France recently joined, has been canvassing the position and outlook.[7]

TEA

The Tea Regulation Scheme of 1933, unlike temporary expedients adopted in 1920 and 1930, was conceived as "a long term effort to meet a disastrous situation which could only be corrected over a period of years." Contrary to anticipations expressed before its adoption, five years proved insufficient for this purpose. Indefinite continuation of regulation soon became the accepted doctrine, though successive renewals of the agreement were made for terms of years.

The International Tea Committee (I. T. C.) are well satisfied with the results achieved in eliminating losses, promoting improved efficiency, and securing greater stability in the tea industry and tea trade, without injury to any interest concerned. If critical students cannot completely indorse the committee's self analysis, this I. C. A. can safely be called outstandingly successful from several viewpoint and open to less criticism than any other I. C. A. to date.[8] Yet it is not without objectionable potentialities.

International tea control has been distinctive in several respects. It was based on agreements among tea-producers' associations, with the blessing and backing of the governments concerned, rather than on intergovernmental agreements as such. Negotiations to convert it into an agreement among governments were interrupted by the progress of the war. Only British and Dutch interest participated, and only five governments were involved: India, Ceylon, and the Netherlands Indies and their mothergovernments the United Kingdom and the Netherlands. Even in its latest form (1943) the tea agreement does not contemplate the addition of member-countries not producing tea, though it is contemplated that governments of tea-consuming countries might appoint an official observer to satisfy themselves that the control powers are being properly exercised. It authorizes the I. T. C., by unanimous vote, to admit other tea-growing countries on terms agreed upon. The members of the I. T. C. are appointed by the governments of the member-countries, but only one of the two to five members from each may be appointed without consultation with the tea growers of that country.

For numerous reasons, including the powerful backing of the principal tea-consuming country, Great Britain, tea proved especially amenable to such control. Neither competition from green-tea countries (China, Japan, and Formosa) nor expansion of black-tea production in nonparticipating countries has yet gone far enough to threaten breakdown of the control system under the moderate policies pursued.

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[7] *Department of State Bulletin*, August 13, 1944, pp. 156–57; November 25, 1945, pp. 840, 872; and various intermediate issues.

[8] See I. L. O., *I. C. C. A.'s*, pp. 47–58 (the renewal agreement of 1942 is not available); International Tea Committee, *A Review of the Tea Regulation Scheme, 1933–1943* (London, 1943); and V. D. Wickizer, *Tea under International Regulation* ("Food Research Institute, Commodity Policy Studies," No. 4 [Stanford University, Calif., 1944]). In February, 1945, the I. T. C. circulated a mimeographed memorandum entitled "Notes on Mr. V. D. Wickizer's Book. * * *" The quotations in this and the following paragraphs are from the "Notes." These and later "Notes" are discussed in Wickizer's *Supplementary Comment*. * * * (August, 1945).

The controlling body, the I. T. C., has had able leadership, has followed generally enlightened policies, has won and held the confidence of the tea trade, has materially improved available statistics, and has issued excellent reports. In the committee's view, which we are in no position to challenge, the rule of unanimity (virtually between the British and the Dutch governments) in its chief decisions has proved a source of strength—as it might not be in a body representing more countries. No high degree of stability of wholesale tea prices was accomplished or even sought, though price fluctuations in 1934–39 were naturally less marked than in the troubled years 1929–33. More stable conditions were enjoyed by tea-producing interests in the participating countries, apparently consistent with increased efficiency. Expansion of tea acreage there was held in check, but no notable readjustment of producing capacity was achieved.

The "disastrous situation" that led to inauguration of this I. C. A. was marked by depressed prices, which the regulation scheme was effectually designed to improve. The I. T. C. protest, however, that, "while necessarily noting the price tendencies," they had no price objectives in mind and that "price levels did not enter into the Committee's calculations at all." The only avowed exception was in 1941, when the committee "were disturbed by the extravagant levels to which the Calcutta market had been raised" and when "their efforts to check the upward rush of prices by increases in the release of tea were entirely unsuccessful." Apart from this, their consistent primary objective was "the necessity to make available adequate supplies for foreseeable demand and at all times of making the supply available anterior to and not following upon demand." This necessarily entailed more concern with tea prices and price levels than the committee are willing to admit, but the committee deserve credit for not pursuing an opportunistic price-boosting policy, as their tin contemporary did.

A complimentary objective was to increase consumption in actual and potential markets, by promotional efforts that "supplemented, co-ordinated and extended the propaganda campaigns already in existence." Success attended these efforts to expand consumption in tea-producing countries, but not generally elsewhere. One highly important policy contributed to this result. Prices of tea for use within India were kept well below export prices, and even tended slightly downward in 1934–40, while export prices tended upward. This substantial price differential, coupled with the extensive advertising in India, goes far to explain the doubling of tea consumption in 1932–38 within the three chief producing countries. In 1940, when overseas demand was strong, the Calcutta export price averaged more than three times the Calcutta price for home use.

The basic regulation of exports by changing quotas was applied so as to insure "ample supplies for all purposes" but to "prevent the accumulation of unsaleable surpluses" in importing countries. Concomitant features were virtual prohibition of new planting in the participating countries, restrictions on current production, and prohibitions of exports of tea seed and slips except under license. The level of tea exports under regulation in 1933–39 was substantially lower than in the six years preceding, doubtless in large part for reasons independent of the control. The upward trend of exports from black-tea countries, which had broadly characterized the three decades ending in 1932, has not since been resumed.

The I. T. C. nevertheless insist that "the regulation scheme * * * was not a 'restriction' scheme * * *. It was not intended to have, nor did it in fact have, the disadvantages which must be inherent in a scheme which is purely restrictive in its application." Such protests reflect the high degree of sensitiveness of a control body to the charge of restrictiveness and also suggest the dangers of undiscriminating condemnation of any and all restrictions. In fact, however, no commodity-control scheme can be damned as "purely restrictive," while none has lacked restrictive features. While the I. T. C. is to be commended for its general attitude and policy, it is appropriate to add that the restrictions imposed warrant continued scrutiny with reference to their consistency with guiding principles to be internationally agreed upon.

Ever since its inception in 1933, new plantings have been narrowly restricted in the principal participating countries. The I. T. C. recognizes the future problem of production control as bristling with difficulties. As sized up late in 1942, the world potential exportable production in 1939, under normal conditions, totaled 1,105,000,000 pounds, as compared with pre-war consumption of exported teas totaling 890,000,000 pounds. The "excess productive capacity," which the I. T. C. considered it conservative to put at 215,000,000 pounds, precisely equaled

their aggregate estimate of potential production for export by British and East African colonies and nonregulated countries. Consumption is not likely to reach the pre-war rate for several years, but the Netherlands Indies may require a similar period before their output approaches the pre-war normal. India and Ceylon, however, showed during the war years that they were capable of producing well above their estimated normal production, and in time the teas of the nonregulated countries will once more seek international markets.

Sugar, Wheat, and Coffee I. C. A.'s

More comprehensive and ambitious but far less successful I. C. A.'s were adopted in the 1930's for sugar and wheat. Two of these were distinctive in including numerous net-importing countries along with net-exporting countries. A five-country interim agreement on wheat, replacing the short-lived one of 1933–34, became effective late in June, 1942; it has thus far proved of slight consequence. Very little of the elaborate Draft Convention, designed for submission to a more representative International Wheat Conference, has been brought into force. Late in 1940, under the influence of wartime conditions, the United States concluded a coffee agreement with the fourteen Latin-American coffee-producing countries; this has virtually ceased to be operative since VJ-Day. The outbreak of war in September, 1939, interrupted efforts to formulate an I. C. A. among cotton-exporting countries; these were resumed in the spring of 1945, but suspended late in February, 1946, without significant results. These four agricultural products are often—though by no means accurately—spoken of as characterized by "chronic surplus." In all cases, it is worthy of note, governmental policies in one or more countries have been primarily responsible for recurrent or persistent surpluses.

SUGAR

One of the most important I. C. A.'s before World War I was the (Brussels) Sugar Convention of March 5, 1902, which was nominally in effect for seventeen years after September 1, 1903. It was designed to curb a seriously objectionable practice in international competition. "All the principal beet-sugar-producing countries except Russia (which adhered with reservations in 1908) agreed to abandon export and production bounties on beet sugar, which had been carried to gross excess, and to penalise or prohibit imports of 'bounty-fed' sugar from nonparticipating countries." This convention is said to have been "the first to give an international committee power to dictate policy"[9]—though this statement implies too much. For a few years, amid many difficulties, it achieved its purpose. Even before World War I, however, the execution of the agreement was weakened; and under the pressures of war and protectionist policies it became largely inoperative several years before it was dissolved in 1920."

Two quite different I. C. A.'s for sugar were adopted between the two world wars: (1) the Chadbourne Agreement among sugar-producers' associations in seven sugar-exporting countries, which was signed on May 9, 1931, and broke down before it formally expired on May 31, 1935, and (2) the International Sugar Agreement among twenty-one exporting and importing countries, which was signed on May 6, 1937, and is still nominally in effect. In both instances the administrative body was called the "International Sugar Council."

The Chadbourne Agreement, though not intergovernmental in form, initially had the support of the governments of the participating countries: Cuba, Java, Germany, Belgium, Czechoslovakia, Hungary, Poland, and eventually Peru and Yugoslavia also. By drastic export and production restrictions, not only under the agreement but supplementary to it, most of the surplus sugar stocks in the

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[8] References to this and earlier agreements relating to drawbacks and bounties on sugar are given in H.O. ICCA's, p. 26 n. On the Brussels Convention, see also H. C. Prinsen-Geerligs, *The World's Cane Sugar Industry, Past and Present* (Manchester, 1912), pp. 34 ff., 371 377; and its supplement, H. C. and R. J. Prinsen-Geerligs, *Cane Sugar Production, 1912–37* (London, 1938), pp. 16–18; and Jacob Viner, *Dumping: A Problem in International Trade* (Chicago, 1923), pp. 178–186.

[9] J. A. Mandler, *Foundations of Modern World Society* (Stanford University, Calif., 1941), p. 287.

[10] Of the same general nature as the Brussels Sugar Convention of 1902, though of negligible importance, was an international agreement on hides, skins, and bones, effective in October 1929, under which 18 states jointly renounced export prohibitions and accepted limitations on export duties on these products (see League of Nations, Economic, Financial, and Transit Department, *Commercial Policy in the Interwar Period: International Proposals and National Policies, 1942* ((Geneva, 1942), p. 35). Of experience under this I have been able to get no evidence.

participating countries were worked off. The more fundamental objective of raising depressed sugar prices to remunerative levels was not attained. Further declines in most series of sugar prices occurred in 1932, and sharp fluctuations continued in several markets in 1933 and 1934. London wholesale prices of raw sugar, in terms of sterling and United States currency, were below the 1931 average until early in 1937 and again through most of 1938. The guilder price of sugar in Java, until 1939, averaged lower than in 1931. It was not until the middle of 1934 that Cuban raw-sugar prices, in terms of depreciated United States currency, ruled consistently above their 1931 average. Cuban sugar prices were actually higher in the interval between the two agreements than under either agreement.

During 1931–35, moreover, sugar production outside the Chadbourne countries was expanded, notably in India and the Japanese empire, formerly large importers from Java, and in the United States and its overseas sugar territories, thus leading to reduced American imports from Cuba. For Java and Cuba, the two lowest-cost producing countries, the consequences of this outside expansion were disastrous, because their volume of exports was greatly reduced, while their export prices remained below levels considered remunerative, despite their low production costs.

The International Sugar Agreement of 1937 was not merely a fresh attempt to achieve success where the Chadbourne plan had failed. It was the most matured product of thought and efforts on I. C. A.'s that were intensified during the great depression and forwarded by the abortive World Monetary and Economic Conference of 1933. Its signatory countries produced 85–90 per cent of the world's sugar, as compared with about 40 per cent in the Chadbourne agreement.

The International Sugar Conference that convened in London on April 5, 1937, was called only after "careful exploration" gave reasonable assurance that "absolute barriers" to reaching an agreement no longer existed. This conference was summoned by Prime Minister Ramsay Macdonald, "on the instruction" of Dr. H. Colijn, Netherlands Minister of Colonies and president of the Economic Commission "to whom the Bureau of the World Monetary and Economic Conference had entrusted the prosecution of certain economic questions."

In opening the conference, from whose month's work in London the new agreement emerged, Mr. Macdonald said:

"We are met to consider whether something can be done towards removing the troubles which have beset the world's sugar producers for many years. Today, the position is much better than it was, say four years ago; production has been brought to a reasonable relation with consumption; stocks have been reduced to manageable proportions and world prices have apparently, for the first time for many years, taken a definite upward turn in the last few months. But production in some of the greatest sugar-producing countries remains at only about 50% of its former level. In many others, production has been sustained only by special measures of assistance which remain a heavy burden on Government finances or on sugar consumers. There still is in the world a capacity to produce far in excess of present demand. The improved world price is still only just remunerative to the cheapest producers and, while unused capacity exists and is ready at any moment to be freed, there can be no security of obtaining even that modest return.

"Many of the past difficulties of the industry have been due to lack of certainty as to what world production was going to be, and a failure to coordinate the sugar policies of different countries. It seems to me therefore that perhaps the best service can be rendered now to the world's sugar industry is to give it some assurance of stability and order. That, I think, should be the fundamental object of an Agreement.

"It is owing to the decisive influence of State action that this Conference is composed of delegates to Governments not of the producers themselves. Too many factors are involved for the terms of an effective sugar regulation agreement to be settled by producers alone. It is necessary to add to a mere regulation of supplies some provisions designed to prevent disturbance by further uncoordinated Government intervention.

"But, while we are aiming primarily at safeguarding producers against disastrously low prices, we have to remember the interests of consumers. The United Kingdom is itself a very large consumer and we are naturally not in favour of anything being done to raise prices above a just economic level. We seek to bring order into the industry so as to be fair to both producers and consumers. In considering this problem, we should not forget that, today, con-

sumption is kept down in some countries by the maintenance of high retail prices."[13]

The resulting sugar agreement[14] was extremely detailed and in many respects very ambitious, but it contained no provisions enabling the International Sugar Council to go to the heart of the world sugar problem—nationalistic measures promoting high-cost production and restriction of sugar consumption in many countries. It merely "aimed at equating the exports of cheap sugar to the import demands limited by the protection granted to high-cost producers."[15] The two years before war came upon Europe were too short for adequate test of its limited potentialities.

Ratification by all the signatory countries was not effected by September 1, 1937, as had been expected. Only six, indeed, had deposited ratifications by that date, but thirteen more did so in the next ten months. Three—China, France, and Yugoslavia—never did ratify. Formal differences arose over bringing the agreement into legal force among those which had ratified it. On July 22, 1942, when it was about to expire, it was agreed by fifteen governments (excluding the signatories Germany, Hungary, Poland, and India, but including the Philippines) that the agreement "shall be regarded as having come into force" in respect of these governments on September 1, 1937, and that it should continue in force through August 31, 1944.[16] Its formal existence was later extended for one year,[16] but under war conditions its existence was essentially nominal. Its present legal status is unclear, but presumably it will be revived in due course.

In its initial period the International Sugar Council lacked a solid foundation for its existence. Its powers with respect to changes in what proved excessive basic quotas were limited in any case. An able Dutch participant in this and other I. C. A.'s, the late G. H. C. Hart, nevertheless asserted that the sugar agreement "proved of great importance" from its signature until World War II broke out, and even afterward.[17] Protracted discussions among representatives of the ratifying countries yielded decisions by which export regulation was carried out. At best, however, the operations did not prevent further recessions in sugar prices, and the agreement made no demonstrable contribution toward price recovery or a sound readjustment in world sugar production.[18]

WHEAT

An International Wheat Agreement was signed in London in the summer of 1933, after a series of conferences initiated before the World Monetary and Economic Conference convened and continued beyond its end. Of the twenty-two signatory exporting and importing countries, all but one (Eire) ratified with or without reservations.[19] Export-quota restrictions were agreed to, but no effective machinery for enforcement was created. Although total exports in the first year 1933–34) fell short of the aggregate quota, Argentina's exports moderately exceeded her quota. Her crop greatly exceeded forecasts made in the summer of 1933, as did European wheat production. The Argentine ministry of agriculture who had favored the agreement died, and his successor was cold toward it. Efforts to get quotas readjusted were unavailing. Argentine spokesmen plausibly argued that North American producers had failed to fulfil badly worded commitments to reduce their wheat acreage for 1934. Inability to reach agreement within the International Wheat Advisory Committee forced virtual suspension of the scheme after the initial season.

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[13] League of Nations, *International Sugar Conference* (Geneva, October 27, 1937), p. 26. This document is one of the best in the whole field of I. C. A.'s and could well be taken as a model for reports on similar conferences. Unfortunately, nothing like it is available for other conferences that either led to I. C. A.'s or failed to do so. By comparison, the published report of the Washington Wheat Meeting of 1941–42 is disappointingly meager.

[14] I. L. O., I. C. C. A.'s, pp. 26–45. For further background see also *Foreign Agriculture* (U. S. Department of Agriculture, June, 1937), I, 299–310.

[15] *Economist* (London), June 10, 1945, p. 818.

[16] I. L. O., I. C. C. A.'s, pp. 45–46.

[17] *Department of State Bulletin*, October 29, 1944, p. 526; April 29, 1945, p. 836.

[18] G. H. C. Hart, *Towards Economic Democracy in the Netherlands Indies* (New York: Netherlands and Netherlands East Indies Council, Institute of Pacific Relations, 1942), p. 117.

[19] Cf. P. Lamartine Yates, *Commodity Control: A Study of Primary Products* (London, 1943), chap. iii.

[20] The twin agreements and certain reservations are given in I. L. O., I. C. C. A.'s, pp. 1–10. The experience is analyzed in J. S. Davis, *Wheat and the AAA* (Washington, D. C.: Brookings Institution, 1935), pp. 303–48, 416–17; and more briefly in J. S. Davis, *New International Wheat Agreements* ("Wheat Studies of the Food Research Institute," Vol. XIX [Stanford University, Calif., November, 1942]), p. 26.

The signatory net-importing countries under the 1933 agreement made several promising commitments. In particular, they undertook to lower their wheat-import duties when a selected basic price had ranged for 16 weeks above 62 gold cents per bushel. Actually, despite the near approach to the planned compliance with export-restrictions, wheat prices declined instead of rising; hence this commitment did not become effective. The others led to no significant actions. The production-control provisions also were given no real test. A succession of short wheat crops in 1934-36, due to low yields, permitted absorption of surplus stocks and eventually marked advances in prices.

The Wheat Advisory Committee survived the demise of the scheme and kept alive the possibility of a new and tighter international agreement, including minimum-price provisions. Negotiations to this end were in active progress in 1938–39, after the bumper world crop of 1938 had reconstituted a world wheat surplus. War broke out before these had reached their final stage. In 1941-42 they were resumed in Washington among five allied and neutral countries with major interests in wheat.

These negotiations eventually resulted in an elaborate Draft Convention intended for submission to a subsequent general International Wheat Conference, and in an interim agreement, effective June 27, 1942, among the five governments whose representatives participated in the Washington wheat meeting: the United Kingdom, Canada, Argentina, Australia, and the United States.[30] The Draft Convention called for an extremely ambitious I. C. A. The interim agreement brought a little of it into effect.

The Wheat Advisory Committee, though not yet formally terminated, was in effect replaced by an International Wheat Council, with its seat in Washington for the time being.[31] It has met at least twice a year since August, 1942, and its Executive Committee has met more frequently. In the absence of annual reports, which the council has chosen not to publish (despite specific provision to this effect), it is difficult to evaluate actions that may have been taken, particularly along the lines of influencing the direction of national policy in the respective countries; but evidence of any significant influence is lacking. With the cessation of hostilities, the council was faced with a number of problems that put the interim agreement to a test. Thus far (March 1, 1946), it has been found wanting. In default of anticipated agreement on schedules of maximum and minimum prices, individual wheat-exporting nations are determining their own prices. Most of the wheat for relief is being handled without obvious reference to the agreement. No appreciable co-ordination of production and export policies has been undertaken, except in limited degree through the Combined Food Board. The International Wheat Council seems impotent. If and when an International Wheat Conference is called, it may well view with favor an agreement very different from that presented in the 1942 Draft Convention.

COFFEE

The Inter-American Coffee Agreement (1940) was born of wartime economics and high politics.[32] In the preceding quarter-century, Brazil had conducted several coffee "valorization" and "defense" operations. These involved holding back coffee when surplus supplies depressed prices, releasing stocks after price recovery, and eventually huge destruction of surplus stocks (at the peak in 1937, over seventeen million bags were destroyed) without eliminating the incubus. Under this Brazilian policy, competing coffee-producing countries expanded their production and their share of the world market at Brazil's expense. Several Brazilian efforts to get an I. C. A. for coffee failed; but, in consequence of a resolution of the First Pan-American Coffee Conference at Bogotá in October, 1936, eight of the more important producing countries jointly established a Pan-American Coffee Bureau in New York City. Early in November, 1937, Brazil undertook to regain her former share of the world market by selling her coffees for what they would bring. In the ensuing "coffee war," Brazilian coffee sold at heavy price discounts, the larger because in the period of restricted Brazilian exports

[30] Reprinted in I. L. O., *I. C. C. A.'s*, pp. 10–25, and analyzed in Davis, *New International Wheat Agreements*, pp. 25–64.

[31] On this paragraph see J. S. Davis, *Wheat under International Agreement* (American Enterprise Association, "National Economic Problems," No. 410 [New York, (April), 1945]); and Dominion Bureau of Statistics, *Monthly Review of the Wheat Situation*, XVI, No. 2 (October, 1945), 1-8.

[32] See I. L. O., *I. C. C. A.'s*, pp. 59-68; and V. D. Wickizer, *The World Coffee Economy, with Special Reference to Control Schemes* ("Food Research Institute, Commodity Policy Studies," No. 2 [Stanford University, Calif., 1943]).

the coffee trade and consumers had developed their preferences for other coffees of the "mild" types, in which Colombia led. Nevertheless, the international coffee situation was in a fair way to readjustment when war developments created serious new problems.

In the first few months after Germany invaded Poland, prices of mild coffees fell sharply. They fell still lower, and Brazilian prices weakened further, after the German invasion of the Low Countries in the spring of 1940. With the fall of France, the loss of Continental European markets, which normally accounted for 40 percent of the world absorption, threatened further price declines below the very low levels reached in the summer of 1940. The international situation was so dangerous that the United States took active steps to promote Pan-American political solidarity and to strengthen the economic position of Latin-American nations. Following a series of conferences in June–November, 1940, an Inter-American Coffee Agreement (I. A. C. A.) was signed by the United States and fourteen Latin-American coffee-producing countries. After receipt of essential ratifications and the passage of supporting legislation in the United States, this went into effect April 16, 1941, and was made retroactive to October 1, 1940.

The central feature of the I. A. C. A. was a system of export quotas, for which basic schedules were agreed upon after negotiation and compromise. The only ones that have had practical significance were the individual-country quotas for export to the United States—normally the consumer of over half the world's coffee—which the United States agreed to enforce by import controls. The administering body, the Inter-American Coffee Board, was set up in April, 1941, with its seat in Washington and the American member as chairman. The board was empowered to fix and alter export quotas within prescribed limits. The coffee-exporting countries were interested in having these export quotas fixed in order that cutthroat competition should be prevented and that American coffee prices should rise to profitable levels; and the United States, in effect, indicated its willingness to facilitate such rise in the interest of inter-American solidarity.

Speculative activity, strongly reinforced by rising minimum export prices set by Colombia (which had shrewdly accepted an export quota to the United States that was low compared to her recent exports) even before the agreement was formally ratified, raised coffee prices sharply. Representative import prices in New York roughly doubled between August, 1940, and August, 1941, moving from the lowest prices in a decade to the highest.[35] Late in May, 1941, the board raised the United States quotas by 5 per cent and, to permit speeding-up of imports threatened by impending scarcity of shipping, authorized exports of additional amounts not to be entered for consumption until after October 1. At the board meeting in July, the American chairman stated that further increases in coffee prices were unwarranted under present conditions; and in August the United States exercised its right to declare an emergency[36] and increased quotas by 20 per cent. These moves effectually prevented further price advances and resulted in prices receding slightly from the peaks of the summer months.[37]

Shortly after the Pearl Harbor attack, the Office of Price Administration established price ceilings for green coffees at about the levels then current. This schedule was revised on December 20, 1941, and further amended and expanded in August, 1942. By and large, however, the ceilings of December, 1941, were adhered to until mid-November, 1945, despite vigorous and persistent efforts on the part of the coffee-producing countries, especially in 1944 and 1945, to get them raised.[38]

In April, 1942, shrinking stocks of imported coffee due to shipping shortages forced the imposition of restrictions on coffee distribution in the United States, and the Coffee Board removed all restrictions on coffee shipments to the United States for storage here. Another emergency increase in coffee quotas was made in July. The Commodity Credit Corporation arranged to absorb certain war-

[35] Eurico Penteado, Brazilian member of the Coffee Board and chairman of the Board of Directors of the Pan-American Coffee Bureau, said of this in a review of "The Facts on the Coffee Situation," *Tea and Coffee Trade Journal* (New York), LXXXVII (December, 1944), 196–c: "The coffee market slowly recovered and prices reacted in a healthy manner until they reached, late in 1941, a level which was then acceptable or even satisfactory *when compared to the* disastrous depths to which they had fallen in 1940."

[36] Under Art. VIII of the Agreement, the United States could outvote the producing countries at any time if it considered a shortage of supplies imminent in the United States. Otherwise, quota changes could be made in amounts not greater than 5 per cent and not oftener than once every six months.

[37] Penteado, "The Facts on the Coffee Situation," *op. cit.*; *Department of State Bulletin*, March 25, 1945, pp. 512–18; and *Coffee* (New York), IV, No. 4 (April, 1945), 8, and No. 9 (September, 1945), 2–24. Such efforts were natural in view of notable inflation of prices and wages in Latin-American countries, coupled with maintenance of dollar-exchange rates.

time costs of coffee imports, to avert a "squeeze" on the American coffee industry. Additional restrictions imposed by the War Production Board, effective September 1, cut distributors' allotments to 65 per cent of their average handlings in the corresponding quarter of 1941. For eight months after November 20, 1942, coffee was rationed as a means of securing rational distribution of a supply limited by shipping facilities. In this troubled period the board served as a useful international consulting body; but the quota changes that it made were designed mainly to prevent the quotas from restricting imports, and most of the difficult problems that arose were handled by other agencies. These included American official commitments to purchase portions of Brazil's quotas for 1941–42 and 1942–43 that remained unshipped for lack of tonnage, but no complete official report of actual purchases has been published.

The I. A. C. A. was renewed, without change, for two one-year periods from the initial expiration date of October 1, 1943. Since its formulation late in 1940, a number of factors in the world coffee situation have changed radically. The export-quota system, which was the principal device utilized by the Coffee Board, proved inadequate to the demands upon it. Most of the adaptations to wartime changes have been made, not by the board, but outside the agreement. The repeated renewal of the I. A. C. A. appears to reflect inertia in the face of obstacles to appropriate evolution of the agreement rather than perfection of the original instrument.

Chiefly because of the initial price advance that it facilitated, the I. A. C. A. has frequently been termed a great success, especially by the coffee-producing countries, sometimes in even more glowing terms as "a fair, wise and effective model of business arrangement . . . the master plan for Inter-American economic defense and integration."[10] It undoubtedly promoted inter-American political solidarity in a critical period and contributed to marked improvement in Latin-American financial strength during the war. Since late in 1941 it has not been allowed to prevent expansion in United States coffee imports to the extent that shipping and ceiling prices have permitted. The United States has exercised virtual veto rights over measures that would lead to higher coffee prices in the face of what are still large government stocks in Brazil. The Coffee Board has proceeded in consultation with the American coffee trade and has served useful purposes for international coffee discussions.

The principal beneficiaries of the agreement have latterly tended to deny that it has continued to achieve its avowed objective of "assuring terms of trade equitable for both producers and consumers by adjusting the supply to demand." It does not appear to have sufficed to provide, as the American State Department's initial release put it, "effective measures for bringing supplies of coffee in the international markets more nearly in line with existing demand at prices which will be reasonable to both producers and consumers." The Coffee Board has issued only two annual reports, covering the first three quota years, ending October 1, 1943. The statistical basis for intelligent operations continues imperfect,[11] and estimates of Brazilian government stocks vary widely. Fundamental problems of readjustment in the world coffee situation, and even matters important in the war:peace transition, have thus far apparently received wholly inadequate consideration, even though smaller Brazilian crops and the reduction of surplus coffee stocks have made some of the issues seem less urgent than they did.

These facts were wisely, if belatedly, recognized in the Coffee Board's resolution of June 15, 1945, in which the board recommended renewal of the I. A. C. A. for one year from October 1, 1945, on the following conditions:

"(*a*) That the quota provisions of the agreement be inoperative except under emergency conditions when they might be placed in operation by 66 per cent of the board; (*b*) That the Board undertake during the renewal period to prepare a thorough analysis of the world coffee situation and formulate recommendations for the consideration of the governments now participating in the revised agreement, regarding the type of intelligent co-operation that appears most likely to contribute to the development of sound, prosperous conditions in international trade in coffee."

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[10] Carlos Davila, former Chilean ambassador to the United States, in *Tea and Coffee Trade Journal*, LXXXVII (December, 1944), 30, 36.

[11] At the Fourth Pan-American Coffee Conference, held in Mexico City, September 1–14, 1945, important moves were made toward standardization and improvement designed to dispel "the fog and confusion that . . . have been typical of all coffee statistics" (*The Statistical Coffee Picture* [monthly suppl. to *Coffee*], September, 1945).

Adoption of this recommendation would have left the Coffee Board largely a consulting body, as, indeed, it had been since the great enlargement of coffee quotas in 1942–43. Representatives of nine member-countries signed a renewal protocol on October 2. Pending similar action by the other six, the I. C. A. is apparently no longer in legal effect, though not beyond resuscitation. Judging from resolutions at the Fourth Pan-American Coffee Conference held in Mexico City in September, 1945, the Latin-American coffee producers now look rather to intensified efforts by the Pan-American Coffee Bureau of New York, of which the United States is not a member; but the United States has not acquiesced in thus circumventing the Coffee Board.

On November 17, 1945, Stabilization Director Collet authorized a 3-cent increase in the ceiling prices of green coffee, from November 19 to March 31, 1946, on a maximum of 6,000,000 bags, in order "to avoid a critical shortage of coffee during the coming winter." The cost, about $24,000,000, is being met by a subsidy paid by the Reconstruction Finance Corporation.[38] This concession was not well received in the coffee-producing countries, which continue to insist that wartime advances in production costs justify much greater advances or removing the price ceilings entirely. But on March 19 the arrangement was extended to cover an additional 7,500,000 bags to be landed in the United States not later than June 30, 1946.

Miscellaneous I. C. A.'s

In addition to the I. C. A.'s for the six important staples of international trade already discussed, a variety of others have dealt with marine resources, narcotic drugs, silver, lumber, beef, wool, and petroleum. The last two, promulgated as recently as September, 1945, are potentially the most important.

Marine Resources

Several I. C. A.'s have had as their primary objectives curbing depletion and promoting replenishment of certain marine resources and eliminating international friction over the exploitation.[39] These agreements are noteworthy because of the extent to which they have rested upon extensive scientific investigations, which have not yet been supplemented by needed economic studies.

The earliest and least important of these conservation agreements, but the longest lived and most successful, was a convention for the preservation and protection of fur seals (and sea otters) in the northern Pacific, between the United States, Great Britain, Russia, and Japan. This went into effect December 15, 1911, and lasted for thirty years. Canada, in fact though not in form, virtually succeeded Britain as a party. Since the revolution of 1917, Russia has been a passive participant.

This I. C. A. was the outgrowth of repeated scientific investigations, national actions, and international conferences during a fifteen-year period, in which uneconomic exploitation of fur seals led to drastic depletion of the herds and gave rise to disturbing international incidents. Under this agreement, pelagic sealing, which had been chiefly responsible for depleting the fur-seal herds, was ended. The United States government regulated and virtually monopolized the killing of fur seals on the Pribilof Islands, the chief breeding center, and shared the skins with Canada and Japan. Russia and Japan made similar commitments regarding operations on the Commander and Robben Islands, respectively. The operations were managed in such a way that the Pribilof seal herd increased more than tenfold between 1912 and 1941, and the take of sealskins was gradually stepped up as the herd approached optimum size.

About a year before Pearl Harbor, Japan gave notice of her intention to withdraw from the convention, plausibly alleging that the convention was obsolete and that the fur-seal herd had grown too large and was injuring her fishing industry; but she declared her loyalty to its objectives and willingness to conclude a new agreement. The convention formally expired October 23, 1941, a few weeks before war conditions would have interrupted its operation. Until a revised convention can be adopted, the gap is effectually bridged by a provisional agreement between the United States and Canada. This was negotiated in December, 1942; entered into force May 30, 1944; and was declared retroactively effective from June 1, 1942.[40]

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[38] *New York Times*, November 18, 1945, p. 35.

[39] These are discussed in Jozo Tomasevich, *International Agreements on Conservation of Marine Resources* ("Food Research Institute, Commodity Policy Studies," No. 1 [Stanford University, Calif., 1943]).

[40] *Department of State Bulletin*, March 4, 1944, pp. 230–31; and June 17, 1944, p. 568.

More important, and worthy of mention although they involved only two countries, are American-Canadian agreements relative to the northern Pacific halibut fishery. Under a 1923 agreement a joint International Fisheries Commission was set up with instructions to investigate and recommend but with no power to regulate. Its work provided a sound basis for a new treaty, signed in May, 1930, and effective a year later, which, in July, 1937, was replaced by a slightly modified agreement. Beginning in February, 1932, the commission laid down rules under which halibut fishing could be done and set maximum annual quotas for the catch in specified areas. In addition, with the concurrence of the commission, the American and Canadian halibut-fishing industries exercised more detailed controls over the conduct of their operations. Both types of control are regarded as so successful as to warrant continuation.

In 1930 an American-Canadian investigatory agreement broadly similar to the halibut treaty of 1923 was signed to cover the Fraser River sockeye-salmon fishery, and it will presumably be followed by one providing for control procedures.

Whaling has been the subject of investigations by the International Council for the Exploration of the Sea, established in 1902 with its seat at Copenhagen, and by British, Norwegian, German, and League of Nations bodies. The Norwegians led in regulative measures in 1929 and later. The first International Convention for the Regulation of Whaling (1931) was originally signed by twenty-six nations. It became effective January 16, 1935, after Norway and the United Kingdom—the two outstanding whaling countries—and six others had deposited their ratifications. Nonsigners included Japan, Soviet Russia, Chile, and Argentina. Those which signed but failed to ratify included Germany and several countries with negligible whaling interests. Germany and Japan were important outsiders, because they cherished ambitions to become major whaling nations. Before this moderate agreement came into force, Norwegian and British whaling interests operated under cartel agreements limiting their catch by quotas, successfully in 1932–33 and 1933–34 and unsuccessfully in 1935–36, when German and Japanese competition had become severe.[91]

A second Agreement for the Regulation of Whaling was concluded on June 8, 1937. The nine participating countries included Germany and Argentina, as well as Norway, the United Kingdom, four British Dominions, and the United States, but not Japan. It imposed somewhat more stringent restrictions than the earlier agreement but afforded quite insufficient protection for whales. This agreement was amended and extended at a further conference in London in June, 1938.

World War II interrupted whaling operations for a period long enough to permit marked replenishment of the stock. Anticipating large-scale resumption of whaling within a year or two, representatives of Great Britain, Norway, four British Dominions, and the United States signed, on February 7, 1944, a new protocol on pelagic whaling. Interpreting the operation of the earlier agreement as merely interrupted by the war, the new protocol chiefly made special provisions applicable to "the first season in which whaling operations are resumed."[92] It fixed definite limits to the catch in Antarctic waters, the principal whaling ground. Norway, Britain, and the United States ratified by July, 1944, Canada and New Zealand subsequently, and Mexico also acceded. But Eire, one of the seven nations named in the protocol as an essential party, neither signed nor ratified. In an effort to permit the agreement nevertheless to become operative for the 1945–46 whaling season, a new protocol was signed by representatives of the six adherents on October 5, 1945.[93] A similar protocol covering the 1946–47 whaling season was signed on November 26, 1945.

NARCOTIC DRUGS

Another series of international conventions, in which the United States has evinced most active interest, has aimed to subject international trade in narcotic drugs, and even their manufacture, to restrictions that would curb the serious abuses to which they are subject.[94] The first of these I. C. A.'s was an Interna-

[91] Karl Brandt, *Whale Oil: An Economic Analysis* ("Food Research Institute, Fats and Oils Studies," No. 7 [Stanford University, Calif., 1940]), pp. 89–105; Tomasevich, *op. cit.*, pp. 275–88, and other references therein cited.

[92] *Department of State Bulletin*, June 24, 1944, pp. 592–93.

[93] *Ibid.*, November 25, 1945, p. 872. Australia and South Africa had signed but not yet ratified.

[94] Among the many useful brief discussions of this problem see *Foreign Policy Reports* (New York: Foreign Policy Association, May 1, 1943), pp. 41–42; and *Department of State Bulletin*, July 9, 1944, pp. 47–51, June 3, 1945, pp. 1031–32, and October 14, 1945, pp. 570–74.

tional Opium Convention signed at The Hague in January, 1912, following the first international conference on the subject at Shanghai in 1909. This laid the basis of regulation but provided no effective control machinery. Because of delays in ratifications it was ineffective until after World War I. Under the auspices of the League of Nations, additional agreements were adopted in 1925, 1931, and 1936.

Under these conventions, a sort of international drug administration was set up, comprising an Advisory Committee, a Drug Supervisory Body, and a Permanent Central Opium Board. The committee is a policy-making body that exercises general control. The supervisory body examines national estimates and makes an annual statement of world requirements for medicinal uses. The board follows the reported movement of narcotic drugs, checks this with the schedule of requirements, and notifies the parties of the situation so that they may fulfill their obligation to embargo exports to the country whose imports have exceeded the approved estimate. The system has worked, but has thus far proved inadequate to achieve its objectives. Repeated efforts are made to find ways to reinforce and supplement the existing controls, and further conferences and agreements in this field are to be anticipated.

SILVER

The London Silver Agreement (1933) is an example of a politico-economic deal to boost the price of silver.[56] It was the outgrowth of persistent and successful efforts of silver-mining interests in the United States, through the powerful "silver bloc" in Congress, headed by the late Senator Key Pittman, of Nevada.

In the American political campaign of 1932 both party platforms included planks pledging participation by the United States in an international monetary conference at which silver questions would be considered—the Democratic platform used the phrase "the rehabilitation of silver." Both presidential candidates were impelled to go further in the course of the campaign. Senator Pittman, the new chairman of the Senate Committee on Foreign Relations, was one of the American delegates to the World Monetary and Economic Conference. He won in advance the support of the American delegation for proposals embodied in a resolution that he introduced at the conference on June 19, 1933. A month later the Silver Subcommittee to which this resolution was committed adopted a more restricted draft resolution, recommending an agreement among the chief countries interested in silver. Despite a cool reception from many delegations, this recommendation was included in the report of the Monetary and Finance Commission. Its report was adopted by the full conference on July 27, with a proviso that such agreement be completed by April 1, 1934.

On July 22 it became known that a Memorandum of Agreement had been initialed by representatives of five silver-producing countries and three silver-using countries. India and Spain agreed to limit their sales of demonetized silver in the four years 1934-37 to averages of 35,000,000 and 5,000,000 ounces troy per annum, respectively—figures never before reached. An Indian reservation also permitted the sale of silver for transfer to the United States in payment of war debts, which was later done. China, which agreed to make no sales of demonetized silver, eventually ratified with a reservation under which she subsequently sold large amounts. The five silver-producing countries, in turn, agreed to buy a total of 35,000,000 ounces per annum. Under a supplementary Allotment Agreement announced on July 29, the United States agreed to buy about 70 percent of this total, approximately the quantity that American mines had produced in 1932; Mexico about 7.16 million ounces; and Canada, Peru, and Australia specified portions of the balance.

Up to March 21, 1934, only the United States and Australia had completed ratification. India, Mexico, and Canada did so within the next week. The time was subsequently extended one month. Even so, it was only by accepting receipt of notice of affirmative action in lieu of formal deposit of ratification that China, Spain, and Peru could be held to have ratified by May 1; and the formal ratification by China, deposited on May 14, contained a major reservation designed to enable her to abandon the silver standard as she was later compelled to do.

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[56] The agreement is U. S. Department of State, *Executive Agreement Series No. 73* (Pub. No. 618). This was excluded from the documents in I. L. O., *I. C. C. A.'s*, on the questionable ground that "it was more closely related to monetary than to commodity control policy" (p. xv). For discussions of the agreement and its outcome see H. M. Bratter, "The Silver Episode," *Journal of Political Economy*, XLVI (October and December, 1938), 609-52, 802-37; and Handy and Harman's *Annual Review of the Silver Market* (New York, 1933——).

The purchases under the agreement were duly made, and after the end of the four-year period the United States purchased the Mexican government's full accumulation, giving Mexico a 9-cent profit. The chief beneficiaries were Mexican silver producers, India as a seller of demonetized silver, and most particularly the handful of American silver producers and their employees, at the expense of the United States Treasury. President Roosevelt's proclamation ratifying the agreement, December 21, 1933, assured United States silver producers to the end of 1937 a price of about 64½ cents an ounce on their full output. This compared with the New York market price of 28 cents in 1932, 34 cents in May, 1933, and 43 cents in November, 1933.

None of the glowing promises made by the silver advocates were fulfilled. The agreement promoted speculation in silver, further pressures from silver-mining interests, and the passage of the Silver Purchase Act of 1934 as a further concession to their demands. When the agreement expired, no effort was made to renew it. Whatever need there may be for an I. C. A. on silver that would genuinely serve the interest of the world economy, no opportunity to reach it will be possible so long as small pressure groups can dominate its formulation.

LUMBER

An international agreement among softwood-lumber exporters was operative in Europe for nearly four years preceding World War II, with the sympathy and support of the governments of nine countries. It evolved out of the disastrous situations that arose in the great depression.[66]

In the first decade after World War I, the European lumber trade underwent major changes. Reconstruction requirements were heavy. Russia, formerly the outstanding exporter, ceased for a time to be a factor, and exports from the Soviet Union only gradually expanded. Exports from the new states of central and eastern Europe, in some instances stimulated by currency depreciation, rose above levels that prudent cutting warranted. The new trade structure collapsed in 1929–32, when deepening general depression reduced building activity; Soviet Russia greatly enlarged her exports; and the London price of softwood lumber fell within three years from $80 to $30 per thousand board feet.

The League of Nations Economic Committee convened a conference of timber experts from the principal lumber-importing and -exporting countries in Geneva in April, 1932. Though an international agreement was discussed, lack of data and divisions of opinion prevented action. This meeting led chiefly to proposals that the International Institute of Agriculture study the problem and assemble materials on it. A conference was held in Vienna in June, 1932, sponsored by Austria, Poland, Czechoslovakia, Rumania, and Yugoslavia, and attended by representatives of other net-exporting and net-importing countries. This set up the Comité International du Bois (C. I. B.), a semiofficial body initially designed to develop an adequate statistical service and to study trade problems. Its members were initially chosen from the exporting organizations of the five countries just named, Latvia, and, in 1933, France as well; but eventually the representatives fell into three groups: governments, official trade-associations, and private trade-associations. Several additional countries later affiliated with it, but Germany started a rival organization.

The C. I. B. soon sought to organize international lumber co-operation, on a nongovernmental basis after discussions at the World Monetary and Financial Conference came to naught. In December, 1933, a conference was held in Berlin, attended by representatives from the C. I. B. countries and Sweden, Finland, and the U. S. S. R. Here was drafted a program for lumber exports in 1934, based on statistical data and estimates. By a gentlemen's agreement, all except Sweden and France agreed to limit their respective exports of sawn softwood to specified quotas. A similar agreement for 1935 emerged from a comparable conference, attended also by Estonia, held in Vienna in October, 1934.

At a third conference, held in Copenhagen in November, 1935, there was adopted the European Timber Exporters Convention (E. T. E. C.). Effective December 1, 1935, this was subsequently renewed from year to year until 1939. Its members were Austria, Finland, Poland, Rumania, Sweden, Czechoslovakia,

[66] See Egon Glesinger, *Le Bois en Europe* (Paris, 1932); various issues of the *Economist*; F. Arcoleo, "The Organization of the International Timber Market," *International Review of Agriculture*, XXVII (Rome: International Institute of Agriculture, February, 1936), 41–49E; Egon Glesinger, "Forest Products in a World Economy," *American Economic Review, Supplement*, XXV (May, 1945), 120–29; and *Third Report . . . by the Interim Commission on Food and Agriculture* (Washington, D. C., April 25, 1945), pp. 26–30.

the U. S. S. R., Yugoslavia, and, after 1936, Latvia; and the C. I. B. functioned as its secretariat. These nine countries currently produced 95 per cent of Europe's soft-wood-lumber exports. Neither net-importing countries nor the important overseas lumber exporters, Canada and the United States, were included. Yearly export quotas were assigned, in a total fixed at the highest level of prospective exports, and enforced by export licenses in some countries and by contractual obligations in Sweden and Finland. The E. T. E. C. was credited with restoring confidence in the lumber market, improving relations among leading exporting countries, and promoting substantial improvement in international timber statistics. Its reputation suffered when lumber prices fell in 1938 under the pressure of business recession, and it came to an end soon after Germany invaded Poland. German-dominated agencies superseded these arrangements, and from 1942 the Berlin-centered European Forest and Forest Products Commission annually fixed production, import, and export quotas for lumber, pulp, and plywood in ten affiliated Axis-dominated and neutral countries. The C. I. B. also ceased to function after most of the European continent was overrun by the Nazis.

BEEF

One highly specialized I. C. A. provided for an International Beef Conference To Regulate the Supply of Beef to the United Kingdom Market, which became nominally effective January 1, 1937.[87] This covered all forms of beef and veal, edible offals thereof, and live cattle for slaughter. The United Kingdom was clearly the dominant party, but the participating governments eventually included two British Dominions, Eire, and three South American beef exporters. Argentina acceded June 28, 1937, Brazil on December 15, 1937, and Uruguay on January 6, 1939.

The conference—an outgrowth of the Ottawa Agreements of 1932—was designed to protect British beef producers, to give imperial preference to Australian, New Zealand, and Irish producers,[88] to keep non-Empire beef imports into the United Kingdom within bounds consistent with such protection and preference, and to facilitate a smooth flow of beef imports that would permit substantial stability of beef prices in Great Britain. In bilateral agreements with the British government, the others undertook to cooperate to insure the effective operation of the control.

Subject to limitations specified in the agreement, the conference made "recommendations with regard to the total quantities of beef and the various classes of beef to be exported from time to time to the United Kingdom, and to the proportions of those totals to be exported from each country. . . ." The quarterly quotas thus unanimously recommended became the basis for export regulations; it was never necessary because of lack of unanimity to refer the decision to the British government. British farmers were represented by a person nominated by their organization and appointed by the British government. British consumers were represented by a Board of Trade official. An Empire Beef Council was set up to consider "matters affecting the well-being of the Empire beef trade . . .," and in December, 1938, its scope was broadened and its name changed to Empire Meat Council.

Until the onset of war caused its suspension, this scheme worked well from the standpoint of the protected interests. Beef import prices were stabilized at about 5*d.* per pound for Argentine chilled quarters. The scheme, of course, permitted discrimination against the cheapest source of supply, Argentina, whose government and producers would have preferred lower prices and larger quotas. The agreement served merely to facilitate some co-ordination of bilateral arrangements, which have continued during the war under the British Ministry of Food.

Evolution of this limited pre-war scheme into a world beef agreement has not been seriously urged. Indeed, it might not be welcomed by either the United Kingdom or the United States—by the United Kingdom because the change might involve breakdown of British domination and modification of the protectionist features and perhaps raise the price of beef imported into Britain; by the

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WOOL

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In 1936 the three Dominions named co-operated in establishing an International Wool Secretariat in London, which has engaged primarily in research and publicity designed especially to meet threats from synthetic fibers.

Another Imperial Wool Purchase Scheme, based on separate but similar agreements with the Australian, New Zealand, and South African governments, was operative in World War II; and the British government's purchase commitments covered one full season after the end of hostilities.[*] As the end of the war approached, unsold accumulations promised to exceed three billion pounds (grease basis), and total world stocks to be around four billion pounds—equal to a large world clip, and more than double the pre-war annual international trade in wool. Australian wool growers pressed for extension of the wartime purchase commitment and permanent abolition of the auction system of selling wool. A London Wool Conference held in April–May, 1945, produced an excellent report recommending a four-country surplus-disposal and price-stabilization agreement for wool. Publicly announced after VJ-Day, this is in process of implementation.[*]

The new agreement supersedes the wartime arrangements as from July 31, 1945, through 1945–46 will be a transitional season without change in the guaranteed price. The accumulated wool stocks owned by the British government are to be taken over by an incorporated Joint Organization (J. O.) with eight shares, of which four will be held by the British government, two by the Australian, and one each by the New Zealand and South African governments. The board of directors will consist of one government nominee for each share held, an independent chairman jointly appointed by the four governments, and (without voting power) the chairmen of a subsidiary company in each of the three Dominions. J. O. will buy, hold, and sell wool as the agent of the four governments. The auction system is to be shortly restored, but special representatives of the four governments, with the advice of the J. O. board, are to fix the general level of "reserve" or floor prices on wool before each selling season opens and at other times as may be required. While it is the obvious intent to liquidate the surplus over a period of years (provisionally estimated at thirteen), J. O. may in some years be a net purchaser of wool. It remains to be seen what relative importance will be attached to disposal of stocks, the price level, and "reasonable stability" of wool prices. One significant provision reads:

"The International Wool Textile Organization will be invited to nominate representatives to form, with the addition of representatives from major consuming countries not members of the Organization, a Committee to act in a consultative capacity to the board of the Company [J. O.] from the point of view of wool consumers."[*]

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PETROLEUM

Despite a great deal of international combination and competition in oil, chiefly among corporations but involving some governments, there had been no world-wide oil cartel and no I. C. A. for oil until an Anglo-American interim agreement on crude petroleum and its derivatives was signed on August 8, 1944.[4] This contained a statement of broad principles and provided for an International Petroleum Commission with certain limited powers. It was designed not only to promote the early solution of pressing international problems arising over oil in the Middle East but also to pave the way for a "world oil accord" to be signed by many nations. The underlying purpose has been officially stated to be, in brief, "preventing friction between nations growing out of problems of foreign oil and assuring to all an adequate supply."

Secretary of the Interior Ickes, petroleum administrator for war, went on record in the *American Magazine* for January, 1944, as favoring an I. C. A. on oil among the big powers:

"* * * (1) to share as a postwar responsibility the rehabilitation of war damage to oil facilities in all parts of the world, including Russia, the Dutch East Indies, Rumania, etc.; (2) to make oil supplies available upon fair and equitable terms to all nations and peoples; and (3) to forbid oil supplies to any nation which violates the basic principles of international law as defined by the United Nations at the peace table. * * *"

On February 6, 1944, however, he suddenly announced an agreement between the American official Petroleum Reserves Corporation and two American oil companies, under which the United States government would build and maintain a vast pipeline system in the Middle East. This news gave rise to widespread apprehensions both at home and abroad

These apprehensions were quieted by the announcement of the Anglo-American agreement. But the agreement itself was attacked as ambiguous and vague, and American independent oil interests also vigorously protested that it opened the door to highly objectionable cartel regulation. At the request of Secretary Ickes, the National Oil Policy Committee of the Petroleum Industry War Council formulated, and submitted in December, 1944, its proposal for a revised agreement. The official agreement was duly submitted to the Senate for advice as to ratification. Apparently because of the attacks upon it, the Senate Committee on Foreign Relations took no steps to act upon the agreement, and early in 1945 the President formally recalled it for revision.

A thoroughly re-written agreement was signed in London on September 24, 1945, and promptly submitted to the United States Senate. Up to March 1, 1946, no action had been taken upon it. Like its predecessor, the new pact is designed to be the forerunner of a multilateral international petroleum agreement; and the bilateral international petroleum commission for which it provides is conceived as the forerunner of a larger international petroleum council. The revised agreement is more carefully worded to avoid the charge that it is a commodity-control agreement or a government-sponsored cartel. The functions of the commission are essentially those of consultation, study, report, and recommendation.

Obviously, the experience in this field to date concerns merely the steps toward an I. C. A. for oil, and even the bilateral agreement may not be in effective operation for several months.

SUMMARY OBSERVATIONS

If one considers the range and volume of commodities entering into international trade, the proportion subject to control or substantial influence by intergovernmental commodity agreements was negligible until 1931, slight until 1933, and significant only in 1935–39. At their widest extent in 1937–39, I. C. A.-regulated commodities comprised tin, tea, rubber, sugar, beef, lumber, fur seals, north Pacific halibut, whaling, and narcotic drugs. Almost none of these was universal in scope; and I. C. A. controls over sugar, lumber, and whaling were, in fact, especially far from complete. The only I. C. A.'s that have effectually operated for as long as five years were those for tin, tea, rubber, fur seals, halibut, and drugs.

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[4] Pertinent among many possible references are Frederick Haussmann, "World Oil Control: Past and Future," *Social Research*, IX (September, 1942), 334–55; Hexner, *op. cit.*, pp. 256–62; Herbert Feis, *Petroleum and American Foreign Policy* ("Food Research Institute, Commodity Policy Studies," No. 3 [Stanford University, Calif., March, 1944]); and *Department of State Bulletin*, August 13, 1944, pp. 153–56, January 14, 1945, pp. 102–3, August 5, 1945, pp. 173–76, and September 30, 1945, pp. 481–83.

During the war years most of the existing I. C. A.'s came to be largely superseded by unilateral governmental controls or bilateral arrangements. By the end of 1945, few of the pre-war agreements that continued in nominal existence had been reactivated, the coffee and wheat agreements had virtually ceased to function, specialized new I. C. A.'s for wool and petroleum had only recently been published, one of these was awaiting ratification, and a one-year whaling agreement was in limited force.

The recent official American proposals, already accepted in principle by the British government, are that renewal, modification, and expansion of I. C. A.'s should proceed under a new International Trade Organization and be supervised by its subsidiary Commodity Commission, in harmony with principles to be considered at a forthcoming International Conference on Trade and Employment.[44] The principles under serious discussion would require marked departures from past practices.

Commodity-control I. C. A.'s among a few producing countries under Anglo-Dutch leadership operated continuously in tea, tin, and rubber in several years of the decade preceding World War II. Two of these admitted advisory representation of tin- and rubber-processing industries in the chief importing and consuming countries. All three exercised their export and production controls with a view to price maintenance and achieved limited success in respect of price stability. None seriously tackled the problem of readjusting excess capacity. The schemes tended to shelter high-cost producers and producing countries, and one (rubber) discriminated against small native producers. Radical changes in tin and rubber export quotas entailed marked fluctuations in employment. Buffer-stock operations were undertaken only for tin, and these only on a limited scale. The lumber I. C. A., under the lead of Continental European exporting countries, had limited aims and success.

Commodity-control agreements including numerous exporting and importing countries were established only for wheat (1933) and sugar (1937), with highly disappointing results. Such service as the coffee agreement rendered during the war does not clearly foreshadow success with a corresponding or broader agreement in peacetime. Conservation agreements for specific marine resources and abuse-control agreements for narcotic drugs proved their value, though hard-won achievements in whaling and drug control were limited. Investigatory and consultative agrements—such as the coffee agreement has become, as the interim wheat agreement of 1942 has been, and as the petroleum agreement seems designed to be—have thus far been tested in peacetime only in the field of marine resources. The short-lived silver agreement was essentially another move to support American silver-producing interests at Treasury expense. The beef agreement was primarily a British-dominated scheme for protecting British and Dominion producers of a commodity of which the Empire is a net importer. The recent wool agreement is a British Commonwealth's undertaking with a commodity of which the Empire is a net exporter. This surplus-disposal I. C. A. is promising in prospect, and its provision for consulting participation seems an improvement on proposals for full-fledged membership by net-importing countries.

Pre-war and wartime experience with I. C. A.'s brings out the great difficulties and delays incident to reaching and rationally revising agreements and their vulnerability to breakdown, especially when numerous countries have important conflicting interests. It reflects tendencies to rely unduly on a favorite restrictive device, export quotas; to be timid in the face of strongly backed nationalistic commodity policies; and to avoid grappling with problems of fundamental economic readjustment.

Recent discussions have tended to focus on I. C. A.'s of the commodity-control type. In the light of experience the conversion of these into desirable and constructive economic institutions appears fraught with considerable difficulties. Other types, in which there has been relatively limited experience, may actually hold more promise.

EXHIBIT XIV

ITO CHARTER AND THE INTERNATIONAL COURT OF JUSTICE

In the course of the testimony of Messrs. Phillips, Stinebower, and Terrill of the Department of State at the hearings of the Senate Committee on Finance on the draft ITO Charter, a number of questions were asked concerning the rela-

[44] See *Proposals* cited in n. 1.

Source: Food Research Institute, Stanford University.

tion between certain provisions of the Charter and the United States declaration of acceptance of compulsory jurisdiction of the International Court of Justice. Senator Millikin requested a memorandum on this subject. The questions asked related to: (1) the extent to which the Department of State favors the provisions relating to the Court in the New York draft of the Charter (article 86, paragraphs 2, 3, and 4); (2) the relation between jurisdiction of the Court under the Charter and the United States reservation as to domestic matters in its declaration accepting jurisdiction of the Court; (3) the jurisdiction of the Court relative to certain matters arising under the Charter which relate to the security interests of the United States; and (4) the giving of advisory opinions by the Court upon matters arising under the Charter.

1. Views of the Department concerning Article 86

As Mr. Stinebower pointed out, it was through a typographical error that paragraphs 2, 3, and 4 of Article 86 of the printed New York draft of the Charter were not bracketed as paragraphs upon which agreement has not yet been reached. As stated by Mr. Stinebower, the Department will press for the deletion from the second and third lines of paragraph 2 of the words "or arising out of its operation". If this change is made the provisions concerning submission of questions to the Court will only cover justiciable issues relating to the interpretation of the Charter itself.

2. Jurisdiction of International Court of Justice on domestic questions

Senator Millikin inquired whether the provisions of Article 86 of the Charter conflict in any way with the reservation as to domestic matters made by the United States in accepting the jurisdiction of the International Court of Justice.

The United States declaration accepting jurisdiction of the Court was made pursuant to the *second* paragraph of Article 36 of the Statute, which reads:

> "The state parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
>
> a. the interpretation of a treaty;
>
> b. any question of international law;
>
> c. the existence of any fact which, if established, would constitute a breach of an international obligation;
>
> d. the nature or extent of the reparation to be made for the breach of an international obligation."

The provisions of Article 86 of the Charter confer jurisdiction on the Court pursuant to the *first* paragraph of Article 36 of the Statute of the Court, which provides as follows:

> "The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force."

The jurisdiction of the Court under the United States declaration of acceptance covers a wide field of questions, including among other things, the interpretation of any international agreement to which the United States is or may become a party, and any questions of international law or international obligation of the United States. The intent of the reservation with respect to domestic questions was to provide a safeguard which the Congress deemed necessary to protect the interests of this country in accepting the very broad obligations contained in paragraph 2 of Article 36 of the Court's Statute.

On the other hand, the jurisdiction conferred on the Court under Article 86 of the Charter is confined to the field of questions with respect to the interpretation of the Charter, which will be a specific and known agreement the final text of which will have been submitted for approval to the Congress before it enters into force. Such an acceptance of the Court's jurisdiction within the limited scope of a particular agreement, as is envisaged by Article 86, is not therefore inconsistent with the purpose of the reservation to the acceptance by the United States of the broad jurisdiction of the Court in its declaration.

Such a limited acceptance of the Court's jurisdiction would be in accord with the practice of the United States, which has already accepted the jurisdiction of the Court with respect to the interpretation of particular international agreements, without making any such reservation as was made in the declaration accepting jurisdiction of the Court generally. Thus, the Congress has approved the constitution of the United Nations Educational, Scientific, and Cultural Organization which provides for the submission to the Court of questions as to

their interpretation. Before the war the Congress, in authorizing United States membership in the International Labour Organization, accepted the jurisdiction of the Permanent Court of International Justice with respect to the interpretation of the Charter of that Organization and of international labor conventions to which the United States might become a party, several of which have received the advice and consent of the Senate. The Statute of the new International Court of Justice provides that such a provision referring to the former Court shall operate to give jurisdiction to the new Court in the case of parties thereto.

Moreover, other countries, notably Canada and the United Kingdom, have qualified their acceptance of the general jurisdiction of the International Court of Justice by a reservation somewhat comparable to that made by the United States, but have not attached any such qualification to their acceptance of the Court's jurisdiction to interpret particular international agreements.

Consequently, under the practice of both the United States and of other countries, there is ample precedent for not attaching to the ITO Charter any qualification such as is attached to general acceptance of the jurisdiction of the Court.

3. Submission of Security Questions to the Court

Senator Millikin questioned Mr. Phillips and Mr. Terrill as to whether the Charter required the submission to the Court of questions involving certain exceptions to the Charter relating to the security interests of the United States.

In this connection it may be pointed out that the United States delegation will seek at Geneva to have substituted for certain exceptions relating to security interests now found in various parts of the Charter (for instance, Article 37 (c), (d), (e), and (k) and Article 53 (c)) general exceptions for these matters applicable to the whole Charter. These new exceptions would be worded so as to give to each Member freedom to apply them as it determines in the interest of its own security. It is believed that this change, which would involve a deletion from Article 86 of the reference to appeal to the Court with respect to these matters, would satisfactorily take care of the general questions raised as to the freedom of the United States with respect to matters involving its security interests raised with Mr. Phillips, and would also assure the necessary freedom with respect to secrecy for atomic technology discussed with Mr. Terrill.

4. Advisory Opinions Relating to Charter

Senator Millikin also questioned Mr. Stinebower relative to the advisory opinions which might be given by the Court relating to the ITO Charter.

The field of advisory opinions is, of course, not included in the United States declaration accepting the compulsory jurisdiction of the Court, and is therefore not covered by the reservation concerning matters essentially within our domestic jurisdiction.

The competence of the Court with respect to the rendering of advisory opinions is based on Article 96 of the United Nations Charter and paragraph 1 of Article 65 of the Court's Statute which read as follows, respectively:

Article 96 of the United Nations Charter

"1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

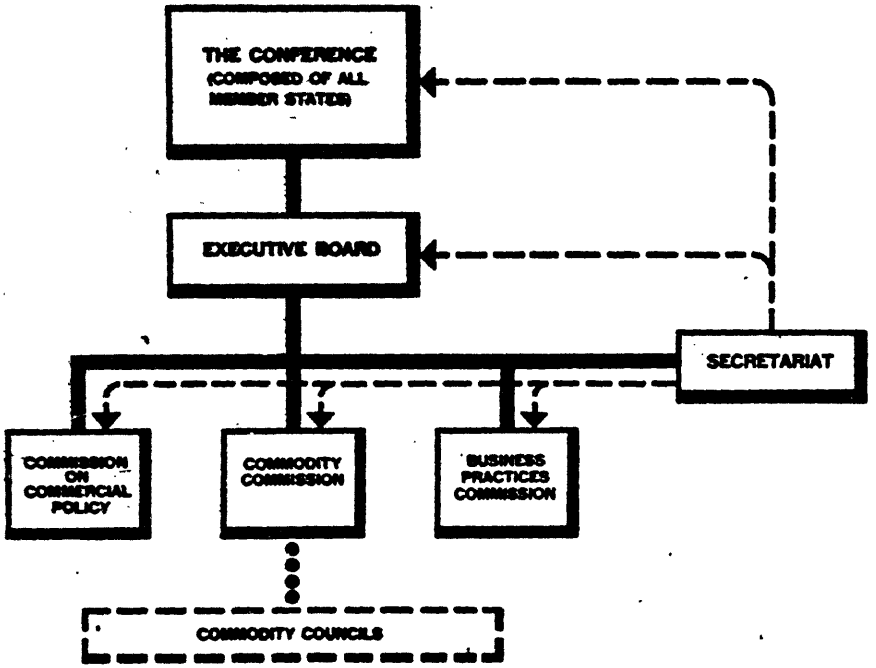
Article 65 of the Court's Statute

"1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request."

Thus, in becoming a member of the United Nations the United States has recognized the right of the General Assembly or the Security Council to request the Court for an advisory opinion on legal questions, which would include, of course, questions of interpretation of the ITO Charter after its entry into force. The last paragraph of Article 86 of the ITO Charter would merely extend to the International Trade Organization, upon authorization by the General Assembly, the authority to request advisory opinions on questions relating to the activities of the Organization.

EXHIBIT XV

PROPOSED INTERNATIONAL TRADE ORGANIZATION



PURPOSE

TO EXPAND WORLD TRADE & EMPLOYMENT BY:

1 REDUCING TRADE BARRIERS

2 CURBING CARTEL & MONOPOLISTIC RESTRICTIONS

3 GUIDING INTERGOVERNMENTAL COMMODITY ARRANGEMENTS

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EXHIBIT XVI

UNITED STATES FORMULA FOR WEIGHTED VOTING

The following 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 following 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 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.*

The suggestion 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 assist 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, 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 means 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.

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 reelection.

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).

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.

EXHIBIT XVII

INTERNATIONAL MONETARY FUND

SCHEDULE OF PAR VALUES, ANNOUNCED DECEMBER 18, 1946

FOREWORD

Schedule of Par Values

Following is a schedule of the par values that have been accepted as the initial rates under the International Monetary Fund. These rates were announced generally on December 18, 1946.

The Fund Agreement requires that "the par value of the currency of each member shall be expressed in terms of gold as a common denominator or in terms of the United States dollar of the weight and fineness in effect on July 1, 1944."

Members have communicated their par values either in terms of gold or of United States dollars or both. For convenience, all par values below have been expresed both in terms of gold and of United States dollars in a uniform manner and with six significant figures, i. e., six figures other than initial zeros. For these reasons, there may arise in a few cases inconsequential discrepancies in the last, rounded, decimal figures.

GUTT,
Managing Director.

WASHINGTON, D. C., *December 18, 1946.*

I.—*Currencies of Metropolitan Areas*

Country	Currency	Par Values In Terms of Gold		Par Values In Terms of U. S. Dollars	
		Grams of fine gold per currency unit	Currency units per troy ounce of fine gold	Currency units per U. S. dollar	U. S. cents per currency unit
Belgium	Franc	0.020 276 5	1,533.96	43.827 5	2.281 67
Bolivia	Boliviano	0.021 158 8	1.470.00	42.000 0	2.380 95
Canada	Dollar	0.888 671	35.000 0	1.000 00	100.000
Chile	Peso	0.028 666 8	1,085.00	31.000 0	3.225 81
Colombia	Peso	0.507 816	61.249 5	1,749 99	57.143 3
Costa Rica	Colón	0.158 267	196.525	5.615 00	17.809 4
Cuba	Peso	0.888 671	35.000 0	1.000 00	100.000
Czechoslovakia	Koruna	0.017 773 4	1,750.00	50.000 0	2.000 00
Denmark	Krone	0.185 178	167.965	4,799 01	20.837 6
Ecuador	Sucre	0.065 827 5	472.500	13.500 0	7.407 41
Egypt	Pound	3,672 88	8.468 42	0.241 955	413.300
El Salvador	Colón	0.355 468	87.500 0	2,500 00	40.000 0
Ethiopia	Dollar	0.357 660	86.956 5	2.484 47	40.250 0
France	Franc	0.007 461 13	4,168.73	119.107	0.839 583
Guatemala	Quetzal	0.888 671	35.000 0	1.000 00	100.000
Honduras	Lempira	0.444 335	70.000 0	2,000 00	50.000 0
Iceland	Krona	0.136 954	227.110	6.488 85	15.411 1
India	Rupee	0.268 601	115.798	3,308 52	30.225 0
Iran	Rial	0.027 555 7	1,128.75	32.250 0	3,100 78
Iraq	Dinar	3.581 34	8.684 86	0.248 139	403.000
Luxemburg	Franc	0.020 276 5	1,533.96	43.827 5	2.281.67
Mexico	Peso	0.183 042	169.925	4.855 00	20.597.3
Netherlands	Guilder	0.334 987	92.849 8	2.652 85	37.695 3
Nicaragua	Córdoba	0.177 734	175.00	5.000 00	20.000 0
Norway	Krone	0.179 067	173.697	4.962 78	20.150 0
Panama	Balboa	0.888 671	35.000 0	1.000 00	100.000
Paraguay	Guaraní	0.287 595	108.150	3.090 00	32.362 5
Peru	Sol	0.136 719	227.500	6.500 00	15.384 6
Philippine Commonwealth	Peso	0.444 335	70.000 0	2.000 00	50.000 0
Union of South Africa	Pound	3.581 34	8.684 86 (or 173 shillings 8.367 pence)	0.248 139 (or 4 shillings 11.553 pence)	403.000
United Kingdom	do	3.581 34	8.684.86 (or 173 shillings 8.367 pence)	0.248 139 (or 4 shillings 11.553 pence)	403.000
United States	Dollar	0.888 671	35.000 0	1.000 00	100.000

II.—*Currencies of Non-Metropolitan Areas*

Member and Non-Metropolitan Areas	Currency and relation to Metropolitan Unit	Par Values in Terms of Gold		Par Values In Terms of U. S. Dollars	
		Grams of fine gold per currency unit	Currency units per troy ounce of fine gold	Currency units per U. S. dollar	U. S. cents per currency unit
BELGIUM					
Belgian Congo	Franc (Parity with Belgian franc).	0.020 276 5	1,533.96	43.827 5	2.281 67
FRANCE					
Algeria Morocco Tunisia French Antilles French Guiana	Franc (Parity with French franc).	0.007 461 13	4.168.73	119.107	0.839 583
French West Africa French Equatorial Africa. Togoland Cameroons French Somaliland Madagascar and dependencies. Reunion St. Pierre and Miquelon.	CFA Franc (=1.70 French francs).	0.012 683 9	2,452.20	70.062 8	1.427 29
New Caledonia New Hebrides French possessions of Oceania.	CFP Franc (=2.40 French francs).	0.017 906 7	1,736.97	49.627	2.015 00
French possessions in India.	Rupee (=36 French francs.	0.268 601	115.798	3.308 5	30.225 0
NETHERLANDS					
Surinam and Curacao	Guilder (=1.406 71 Netherlands guilders).	0.471 230	66.004 9	1.885 85	53.026 4
UNITED KINGDOM					
Gambia Gold Coast Nigeria Sierre Leone	West African Pound (Parity with sterling)				
Southern Rhodesia Northern Rhodesia Nyasaland	Southern Rhodesian Pound (Parity).				
Palestine	Palestinian Pound (Parity).				
Cyprus	Cyprus Pound (Parity).				
Gibraltar	Gibraltar Pound (Parity).	8.581 34	8.684 86	0.248 139	403.000
Malta	Maltese Pound (Parity).				
Bahamas	Bahamas Pound (Parity).				
Bermuda	Bermuda Pound (Parity).				
Jamaica	Jamaican Pound (Parity).				
Falkland Islands	Falkland Islands Pound (Parity).				
Kenya Uganda Tanganyika Zanzibar	East African Shilling (20 per pound sterling)	0.179 067	173.607	4.962 78	20.150 0
Barbados Trinidad British Guiana	British West Indian dollar (4.80 per pound sterling)	0.746 113	41.687 3	1.191 07	83.958 3
British Honduras	British Honduras dollar (4.03 per pound sterling)	0.888 671	35.000 0	1.000 00	100.000
Ceylon	Cingalese Rupee (13 1/3 per pound sterling)				
Mauritius	Mauritius Rupee (13 1/3 per pound sterling)	0.268 601	115.798	3.308 52	30.225 0
Seychelles	Seychelles Rupee (13 1/3 per pound sterling)				
Fiji	Fijan Pound (1.11 per pound sterling)	8.226 44	9.640 20	0.275 434	363.063

II.—*Currencies of Non-Metropolitan Areas*—Continued

Member and Non-Metropolitan Areas	Currency and relation to Metropolitan Unit	Par Values in Terms of Gold		Par Values In Terms of U. S. Dollars	
		Grams of fine gold per currency unit	Currency units per troy ounce of fine gold	Currency units per U. S. dollar	U. S. cents per currency unit
Tonga	Tongan Pound (1.2525 per pound sterling)	2.859 36	10.877 8	0.310 794	321.786
Burma	Burmese Rupee (at par with Indian Rupee, i. e.,=1 shilling 6 pence)	0.268 601	115.798	3.308 52	30.225 0
Hong Kong	Hong Kong Dollar (16 per pound sterling)	0.223 834	138.958	3.970 22	25.187 8
Malaya (Singapore and Malayan Union)	Malayan Dollar (8.571 428 57 per pound sterling, or 2 shillings 4 pence per Malayan Dollar)	0.417 823	74.441 7	2.126 91	47.016 7
Sarawak British North Borneo	The Sarawak and British North Borneo Dollars which circulate alongside the Malayan Dollar (which is legal tender) have the same value				

Exhibit XVIII–A

April 8, 1947.

The Honorable Eugene D. Millikin,
Chairman, Committee on Finance,
United States Senate.

My Dear Senator Millikin: Mr. Fahy has informed me of your request, made during his appearance before the Committee on Finance on March 25, that the Committee be advised as to whether the proposed Charter for an International Trade Organization will be submitted to the Senate as a treaty for its advice and consent or to both Houses of the Congress for appropriate legislation.

As you are aware, the forthcoming meeting at Geneva is a meeting of the second session of the Preparatory Committee of eighteen countries, established by the Economic and Social Council of the United Nations to prepare a draft Charter for consideration by an International (World) Conference on Trade and Employment. At the end of the Geneva session, the Preparatory Committee will submit the draft Charter to the Economic and Social Council which, presumably, will thereafter fix the date and place of the World Conference. Upon completion of the work of the World Conference, the Charter will be referred to the governments of the world for acceptance in accordance with their respective constitutional processes. In the case of the United States, the Charter will be submitted to the Congress. However, in view of the steps outlined above which have yet to be taken, no decision has been made as to the form in which Congressional approval will be asked. You will appreciate that a determination on this issue may very well be affected by the manner in which the discussions yet to be held proceed, and even more by the exact nature of the provisions which emerge from those discussions.

I should like to assure you that this matter will be further discussed by the Department with both the President and the Congress, with a view toward determining the appropriate manner in which Congressional approval should be sought.

Sincerely yours,

Dean Acheson,
Acting Secretary.

EXHIBIT XVIII-B

APRIL 15, 1947.

The Honorable EUGENE D. MILLIKIN,
Chairman, Committee on Finance,
United States Senate.

MY DEAR SENATOR MILLIKIN: I have been informed that during the course of the testimony of Mr. William T. Phillips of the Department on Chapter VII of the proposed draft Charter for an International Trade Organization, the question arose whether intergovernmental commodity agreements would be referred to the Congress for Congressional approval and, if so, whether such agreements would come to both houses of Congress, or to the Senate as a treaty.

I have already written to you on the question of reference of the Charter of the International Trade Organization itself to the Congress and have indicated that, under the circumstances outlined in my previous letter, no decision has as yet been made on the form in which Congressional approval will be asked. Like the Charter in general, Chapter VII is as yet a preliminary draft and is subject to possible change. It therefore is difficult to say whether commodity agreements negotiated pursuant to the provisions of Chapter VII would be referred to the Senate for its advice and consent or whether the approval of both houses would be asked. I may point out that certain commodity agreements have been presented and approved as treaties. On the other hand, commodity agreements under Chapter VII may involve allocation and related powers which would be of interest to the Congress as a whole. Decision has thus not been made on the manner of submission of such agreements to the Congress.

Insofar as such commodity agreements impose any obligations on the United States requiring legislative implementation in any way, it is the intention of the Department that they should be submitted to the Congress.

Sincerely yours,

DEAN ACHESON,
Acting Secretary.

EXHIBIT XVIII-C

Pursuant to the statement by Mr. Fahy, Legal Adviser for the Department of State, during his testimony on March 25 that he would submit evidence as to the extent to which historically the United States has included provisions relating to trade with other countries in executive agreements, in many cases pursuant to express Congressional authorization, as well as informal treaties, the Department of State transmits the following material:

I. Excerpt from "Memorandum re constitutionality of the Trade Agreements Act, February 29, 1940", prepared in the Department of Justice and transmitted to the Secretary of State by Mr. Justice Jackson, then Attorney General, on March 4, 1940, which reviews the extent to which Congress has historically given the President broad authority relative to the trade relations with other countries to be exercised either through the conclusion of agreements or through unilateral action by the United States based upon an exercise of the President's judgment as to the related trading activities of the other countries concerned (Full text of this memorandum and Mr. Justice Jackson's letter are printed in Finance Committee (Senate), Extension of Reciprocal Trade Agreements Act, hearings on H. J. Res. 407, 1940, 728 to 743);

II. List of "Commercial agreements and arrangements (executive agreements—not including reciprocal trade agreements or arrangements concerning suspension of discriminatory tonnage duties or similar restrictions) between the United States and foreign countries which entered into force without being submitted to the Senate for its advice and consent to ratification" appended to an article on the constitutionality of the Trade Agreements Act by former Assistant Secretary of State Sayre in the Columbia Law Review for May 1939 (Vol. 39, Col. Law Rev. pp. 751–775), listing many executive agreements relating to commercial matters, some pursuant to express Congressional authority, from 1784 to 1939; and

III. A supplemental list along the lines of that appended to Mr. Sayre's article, prepared in the Department of State in March 1947.

I

Executive bargaining with foreign nations with respect to foreign commerce, conducted pursuant to acts of the Congress, is as old as the Government and has been used extensively and effectively during the entire period of our national existence. In fact, in the early days of the Government it was probably the most effective instrument resorted to in connection with the regulation of foreign commerce. This resulted naturally from the conditions existing and from the measures adopted by the Congress to meet those conditions.

To understand fully the conditions confronting the United States in its early history it must be remembered that so long as the colonies remained under the dominion of Great Britain they were permitted to have no commerce except such as the British Government considered to be in its interests. No manufacturing whatever was allowed in the colonies. The attitude of the British Government to American manufacturing was truly expressed in Lord Chatham's declaration that he would not permit the colonists to make even a hobnail or horseshoe for themselves. So effectively was this country prevented from developing manufacturing that John Dickinson, of Pennsylvania, could truthfully say in 1777: "We are tillers of the earth from Nova Scotia to west Florida."

After the Colonies gained their independence the British Government continued its policy of attempting to stifle and prevent the development of the commerce of the United States. Harsh and burdensome discriminating practices against our commerce were adopted. England at that time was the strongest nation commercially in the world, and, probably due to her example and influence, other commercial nations, particularly France and Spain, also began to discriminate against our commerce.

As a result of these discriminations the Congress passed numerous retaliatory acts imposing heavy duties and restrictions upon the commerce of those nations which discriminated against the commerce of the United States. Many of those acts vested in the President the power and discretion to either suspend or make applicable the restrictions imposed by the acts with respect to any country dependent upon whether it discontinued or refused to discontinue its discrimination against the commerce of the United States. The nature of these acts and the power and discretion vested in the President thereunder may be illustrated by the following examples:

The act of June 4, 1794, c. 41, 1 Stat. 372, empowered the President "whenever, in his opinion, the public safety shall so require" to lay an embargo upon all commerce with the United States, and to continue or revoke such embargoes whenever he should think proper.

The act of June 13, 1798, c. 53, 1 Stat. 565, suspended all commercial intercourse between the United States and France and its dependencies, with the provision that if the Government of France should "clearly disavow" and should "refrain from the aggressions, depredations and hostilities" against the vessels and property of citizens of the United States and against their national rights and sovereignty and should "acknowledge the just claims of the United States to be considered in all respects neutral," then the President "being well ascertained of the premises" was authorized to discontinue the prohibitions and restraints imposed by the act and to make proclamation thereof.

The act of February 9, 1799, c. 2, 1 Stat. 613, further suspended the commercial intercourse with France and its dependencies, with the provision:

"That at any time after the passing of this act, it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interest of the United States, by his order, to remit and discontinue, for the time being, the restraints and prohibitions aforesaid * * *; and also to revoke such order, whenever, in his opinion, the interest of the United States shall require; and he shall be, and hereby is authorized to make proclamation thereof accordingly."

The act of February 27, 1800, c. 10, 2 Stat. 7, also further suspended commercial intercourse between the United States and France, provided:

"That at any time after the passing of this act, it shall be lawful for the President of the United States, by his order to remit and discontinue for the time being, whenever he shall deem it expedient, and for the interest of the United States, all or any of the restraints and prohibitions imposed by this act * * *; and also it shall be lawful for the President of the United States, whenever he shall afterward deem it expedient, to revoke such order, and hereby to reestablish such restraints and prohibitions. And the President of the United States shall be, and he is hereby, authorized to make proclamation thereof accordingly."

The act of April 18, 1806, c. 20, 2 Stat. 379, prohibited the importation from Great Britain or Ireland of certain articles of merchandise therein enumerated from and after the 10th day of November 1806. The act of December 19, 1806, c. 1, 2 Stat. 411, suspended the operation of the former act until July 1, 1807, and section 3 of the later act provided:

"That the President of the United States be, and he is hereby, authorized further to suspend the operation of the aforesaid act, if in his judgment the public interest should require it: *Provided*, That such suspension shall not extend beyond the second Monday in December next."

The act of March 1, 1809 (C. 24, 2 Stat. 528), again prohibited all commercial intercourse between the United States and Great Britain and France and their dependencies. Section 11 of that act provided:

"That the President of the United States be, and he hereby is authorized, in case either France or Great Britain shall so revoke or modify her edits, in that they shall cease to violate the neutral commerce of the United States, to declare the same by proclamation; after which the trade of the United States, suspended by this act, and by the act laying embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be renewed with the nation so doing."

The provisions of the foregoing act were terminated by the act of June 28, 1809 (C. 9, 2 Stat. 550), as of the end of the next session of Congress, but section 4 of the act of May 1, 1810 (C. 39, 2 Stat. 605), provided that in case either Great Britain or France should before the 3d day of March thereafter so revoke or modify her edicts as to cease to violate the neutral commerce of the United States, the President should declare such fact by proclamation, and if the other nations should not within 3 months thereafter so revoke or modify her edicts in like manner then the provisions of the act of June 28, 1809, should be revived and have full force and effect against the nation thus refusing or neglecting to revoke or modify her edicts. To like effect, insofar as it related to Great Britain, was the act of March 2, 1811 (C. 25, 2 Stat. 651). The validity of this act was sustained by the Supreme Court in *The Brig Aurora* (7 Cranch. 382).

The act of April 27, 1816 (c. 107, 3 Stat. 310), provided a schedule of duties upon certain goods imported into the United States. Section 3 of the act provided that an additional 10 percent should be added to the rate of duties specified and imposed in respect to all goods imported in foreign vessels other than such as are entitled by treaty or by any act or acts of Congress to be entered in the ports of the United States on the payment of the same duties as are paid on goods, wares, merchandise imported in ships or vessels of the United States. The act of April 18, 1818 (c. 70, 3 Stat. 432), closed all ports of the United States to vessels of Great Britain coming or arriving from ports closed to American vessels. The act of March 1, 1823 (c. 22, 3 Stat. 740), suspended the provisions of the act of April 18, 1818, as to certain British ports therein enumerated, but provided that until proof shall have been given the President satisfactory to him that vessels of the United States admitted into the enumerated British ports were required to pay no higher tonnage or imposts duties than those exacted from British vessels on like goods, British vessels coming from the ports enumerated should pay the additional 10 percent tonnage duties provided by the act of April 27, 1816.

The act of January 7, 1824 (c. 4, 4 Stat. 2), provided that—

"* * * upon satisfactory evidence being given to the President of the United States, by the government of any foreign nation, that no discriminating duties of tonnage or imposts are imposed or levied within the ports of the said nation, upon vessels wholly belonging to citizens of the United States, or upon merchandise, the produce or manufacture thereof, imported in the same, the President is hereby authorized to issue his proclamation, declaring that the foreign discriminating duties of tonnage and imposts within the United States, are, and shall be, suspended and discontinued, so far as respect the vessels of the said nation, and the merchandise of its produce or manufacture, imported into the United States in the same; the said suspension to take effect from the time of such notification being given to the President of the United States, and to continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and merchandise as aforesaid, thereon laden, shall be continued, and no longer."

The provisions of section 4 of the act of January 7, 1824, were reenacted in substantially the same language in section 1 of the act of May 24, 1828 (c. 3, 4 Stat. 308), and were later preserved in section 4228 of the Revised Statutes.

Of similar import was the act of May 29, 1830 (c. 207, 4 Stat. 419), as relating to commerce with the British ports in the West Indies on the continent of South America, the Bahama Islands, and other islands named.

The act of May 31, 1830 (c. 219, 4 Stat. 425), repealed all acts imposing tonnage duties upon vessels of foreign nations provided the President should be satisfied that the discriminating or countervailing duties of such foreign nation, so far as they operate to the disadvantage of the United States, had been abolished. The provisions of this act were preserved in section 4219 of the Revised Statutes.

Other acts of similar character to those above enumerated are the act of May 25, 1832 (c. 104, 4 Stat. 517), the act of July 13, 1832 (c. 207, 4 Stat. 578), the act of June 30, 1834 (c. 170, 4 Stat. 741), the act of March 2, 1837 (c. 19, 4 Stat. 152), the act of June 1, 1842 (c. 32, 5 Stat. 489), and the act of March 3, 1845 (c. 65, 5 Stat. 748).

Unquestionably the Congress, in passing the above-mentioned acts, intended that the President should endeavor through negotiations and agreements with foreign governments to effect a discontinuance of the discriminations against the commerce of the United States. The Congress faced a difficult situation. The discriminating practices against our commerce being engaged in by foreign nations, ruinous to the country, were becoming more and more burdensome. Something had to be done. To induce foreign nations to discontinue these discriminatory practices, however, required meticulous negotiations, and the Congress as a legislative body could not carry on such negotiations. It did the only thing it could do. It entrusted the conduct of these negotiations to the President. But the President, as Congress realized, could not carry on such negotiations to a successful conclusion without some basis for bargaining—some power or authority to offer to the foreign nations a quid pro quo for their agreement to discontinue the discriminations.

The Congress met the situation by passing the acts referred to, placing heavy burdens and restrictions on the commerce of foreign nations with power in the Executive to suspend or continue them. It thereby gave to the Executive the means with which to trade and barter. The Executive had something to offer a foreign nation in exchange for its agreement to discontinue its discriminatory practices.

Negotiations naturally and necessarily followed the passage of these acts, and as these negotiations led from time to time to the conclusion of an agreement under which a foreign nation discontinued its discriminating practices this fact was announced by proclamation of the President.

The value and effectiveness of this method of dealing with foreign nations in connection with commercial relations was forcibly expressed by President Jackson in his Annual Message to the Congress December 6, 1830. In this connection he said:

"An arrangement has been effected with Great Britain in relation to the trade between the United States and her West India and North American colonies which has settled a question that has for years afforded matter for contention and almost uninterrupted discussion, and has been carried into operation by the mere [illegible] negotiations, in a manner which promises results highly favorable to the parties.

* * * * * * *

"This arrangement secures to the United States every advantage asked by them, and which the state of the negotiation allowed us to insist upon. The trade will be placed upon a footing decidedly more favorable to this country than any on which it ever stood, and our commerce and navigation will enjoy in the colonial ports of Great Britain every privilege allowed to other nations."

The message in question contains a somewhat extensive discussion of the questions involved in the negotiation with Great Britain. That arrangement, which was regarded by both Jackson and his Secretary of State, Martin Van Buren, as a real achievement of diplomacy, did not rest on any treaty. It was effected by unilateral legislative and executive acts on each part, namely, the British statute of July 5, 1825, the order in Council of July 17, 1826, the United States act of May 29, 1830, the Presidential proclamation of October 5, 1830, and the British order in Council of November 5, 1830. The printed diplomatic correspondence and other papers regarding this arrangement are quite voluminous.

Mr. Van Buren's comments on these acts were:

"The effect of these various enactments has been to vest in the President of the United States the power of granting to any foreign nation willing to reciprocate the same benefit to us, the privilege of importing into, or exporting from, our ports, in its own vessels, the produce of its own soil or manufacture, or of the soil or

manufacture of *any other* country, upon equal terms with those imported or exported in vessels of the United States."

Following the long-established practice of dealing with matters pertaining to commercial intercourse with foreign nations through executive agreements, this Government on November 23, 1863, concluded an "informal convention" with France relating to the exportation of tobacco. A similar agreement was concluded with Austria-Hungary December 24, 1863. (Malloy, vol. 1, p. 38.)

Under section 4228 of the Revised Statutes an agreement was entered into with Spain February 13, 1884, providing for reciprocal abolition of certain discriminating duties on goods imported into the United States from Cuba and Puerto Rico and on American goods imported into those islands. The agreement was brought into force by a proclamation of President Arthur dated February 14, 1884 (22 Stat. 835). This proclamation was revoked by proclamation of President Cleveland dated October 13, 1886 (24 Stat. 1028), upon the finding by the President that the agreement was being persistently violated by the Spanish Government. Further agreements with Spain under section 4228 of the Revised Statutes were entered into on October 27, 1886, September 21, 1887, December 21, 1887, and May 26, 1888.

The Tariff Act of 1890 (ch. 1244, 26 Stat. 567), entitled "An act to reduce the revenue and equalize duties on imports, and for other purposes" provided for the imposition of penalty duties upon imports from countries discriminating in their tariff treatment against goods from the United States. Section 3 of the act provided:

"That with a view to secure reciprocal trade with countries producing the following articles, and for this purpose, on and after the first day of January eighteen hundred and ninety-two, whenever, and so often as the President shall be satisfied that the government of any country producing and exporting sugars, molasses, coffee, tea, and hides, raw and uncured, or any of such articles, imposes duties or other exactions upon the agricultural or other products of the United States, which in view of the free introduction of such sugar, molasses, coffee, tea, and hides into the United States he may deem to be reciprocally unequal and unreasonable, he shall have the power and it shall be his duty to suspend, by proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of such country, for such time as he shall deem just, and in such case and during such suspension duties shall be levied, collected, and paid upon sugar, molasses, coffee, tea, and hides, the product of or exported from such designated country as follows, namely:

"(Here follows a schedule of duties upon certain enumerated articles to be imposed under the conditions named in lieu of the duties on such articles prescribed in the tariff schedules of the act.)"

Under this act a comprehensive program of tariff bargaining by and through Executive trade agreement was inaugurated and trade agreements with foreign nations were concluded as follows: Brazil, June 4, 1891 (proclaimed, Feb. 5, 1892, 26 Stat. 1563); Dominican Republic, June 4, 1891 (proclaimed, Aug. 1, 1891, 27 Stat. 966); Spain, June 16, 1891 (proclaimed, July 31, 1891, 27 Stat. 932); Salvador, December 30, 1891 (proclaimed, Dec. 31, 1891, 27 Stat. 996); Germany, January 30, 1891 (proclaimed, Feb. 1, 1891, 27 Stat. 1004); Great Britain, February 1, 1892 (proclaimed, Feb. 1, 1892, 27 Stat. 999); Nicaragua, March 11, 1892 (proclaimed, Mar. 12, 1892, 27 Stat. 1009); France, April 12, 1892 (informal); Honduras, April 29, 1892 (proclaimed, Apr. 30, 1892, 27 Stat. 1023); Austria-Hungary, May 25, 1892 (proclaimed, May 26, 1892, 27 Stat. 1026); Guatemala, December 30, 1891 (proclaimed, May 18, 1892, 27 Stat. 1025); a second agreement with Salvador (proclaimed, Dec. 27, 1892, 27 Stat. 1056).

Under these agreements the contracting governments agree to admit certain imports free or at substantially reduced tariff rates fixed therein.

During the time these agreements were being entered into penalty duties were imposed under the act on imports from Colombia, Haiti, and Venezuela, after those countries had failed to respond to requests of this country to negotiate agreements. (See proclamations, Nos. 18, 19, 20, 27 Stat. 1010, 1012, and 1013.)

Section 3 of the Tariff Act of 1897 (ch. 11, 30 Stat 151, 203), provided:

"That for the purpose of equalizing the trade of the United States with foreign countries, and their colonies, producing and exporting to this country the following articles: Argols, or crude tartar, or wine lees, crude; brandies, or other spirits manufactured or distilled from grain or other materials; champagne and all other sparkling wines, still wines, and vermouth; paintings and statuary; or any of them, the President be, and he is hereby, authorized, as soon as may be after the passage of this act, and from time to time thereafter, to enter into negotiations

with the governments of those countries exporting to the United States the above-mentioned articles, or any of them, with a view to the arrangement of commercial agreements in which reciprocal and equivalent concessions may be secured in favor of the products and manufactures of the United States; and whenever the government of any country, or colony, producing and exporting to the United States the above-mentioned articles, or any of them, shall enter into a commercial agreement with the United States, or make concessions in favor of the products, or manufactures thereof, which, in the judgment of the President, shall be reciprocal and equivalent, he shall be, and he is hereby, authorized and empowered to suspend, during the time of such agreement or concession, by proclamation to that effect, the imposition and collection of the duties mentioned in this Act, on such article or articles so exported to the United States from such country or colony, and thereupon and thereafter the duties levied, collected, and paid upon such article or articles shall be as follows, namely:

" 'Argols, or crude tartar, or wine lees, crude, five per centum ad valorem.

" 'Brandies, or other spirits manufactured or distilled from grain or other materials, one dollar and seventy-five cents per proof-gallon.' "

Under this act the President concluded executive trade agreements with France, Portugal, Germany, Italy, Switzerland, Bulgaria, the Netherlands, Austria-Hungary, and Great Britain. These agreements were all brought into force by proclamation of the President.

The Tariff Act of 1909 (ch. 6, 36 Stat. 11) provided two schedules of duties, a minimum and a maximum, and authorized the President, when he should be satisfied "in view of the character of the concessions granted by the minimum tariff of the United States, that the government of any foreign country imposes no terms or restrictions, either in the way of tariff rates or provisions, trade or other regulations, charges, exactions, or in any other manner, directly or indirectly, upon the importation into or the sale in such foreign country of any agricultural, manufactured, or other product of the United States, which unduly discriminate against the United States or the product thereof, and that such foreign country pays no export bounty or imposes no import duty or prohibition upon the exportation of any article to the United States which unduly discriminates against the United States or the products thereof, and that such foreign country accords to the agricultural, manufactured, or other products of the United States treatment which is reciprocal and equivalent," to so declare by proclamation, and thereafter articles imported into the United States from such foreign country should be admitted under the term of the minimum tariff prescribed. The act further provided that when the President was satisfied that the conditions which lead to the issuance of the proclamation no longer existed he should by proclamation declare that 90 days thereafter the provisions of the maximum tariff should be applied to importations from the foreign country involved. One hundred and thirty-four proclamations were issued under this act and these proclamations practically included the entire commercial world, making applicable the minimum tariff prescribed.

Section IV of the Tariff Act of 1913 (ch. 16, 38 Stat. 114, 192) authorized and empowered the President to negotiate reciprocity agreements with foreign countries, such agreements to be submitted to the Congress for ratification or rejection. The Revenue Act of 1916 (ch. 463, 39 Stat. 756) authorized the President to prohibit the importation of foreign articles when the same or other domestic articles were refused entry into foreign countries. The act also authorized the President to change, modify, revoke, or renew such proclamation in his discretion.

The Tariff Act of 1922 (42 Stat. 858) contained a flexible-tariff provision in all respects similar in principle to the flexible tariff provisions of the Foreign Trade Agreements Act. Section 315 (a) of the 1922 act provides, in part:

"That in order to regulate the foreign commerce of the United States and to put into force and effect the policy of the Congress by this Act intended, whenever the President, upon investigation of the differences in costs of production of articles wholly or in part the growth or product of the United States and of like or similar articles wholly or in part the growth or product of competing foreign countries, shall find it thereby shown that the duties fixed in this Act do not equalize the said differences in costs of production in the United States and the principal competing country he shall, by such investigation, ascertain said differences and determine and proclaim the changes in classifications or increases or decreases in any rate of duty provided in this Act shown by said ascertained differences in such costs of production necessary to equalize the same. Thirty days after the date of such proclamation or proclamations such changes in classifica-

tion shall take effect, and such increased or decreased duties shall be levied, collected, and paid on such articles when imported from any foreign country into the United States or into any of its possessions (except the Philippine Islands, the Virgin Islands, and the islands of Guam and Tutuila): *Provided*, That the total increase or decrease of such rates of duty shall not exceed 50 per centum of the rates specified in Title I of this Act, or in any amendatory Act."

The act also provided that in extreme cases the President could exclude articles of commerce from coming into the United States. Under this act President Coolidge issued 30 proclamations, of which 26 increased and 4 decreased duties on certain classes of articles imported into the United States, and President Hoover issued 32 proclamations of which 16 increased duties and 16 decreased duties.

The provisions of section 315 of the Tariff Act of 1922 were substantially reenacted as section 336 of the Tariff Act of 1930, (c. 497, 46 Stat. 590, 591 (of which act the Foreign Trade Agreements Act is an amendment), and Executive adjustment of tariff rates thereunder have continued.

The two principles combined in the Foreign Trade Agreements Act have been long and effectively used in connection with the regulation of foreign commerce. Also both have been fully sanctioned by the Supreme Court.

In *Field* v. *Clark*, 143 U. S. 649, the constitutionality of the Tariff Act of 1890 was before the Court. Section 3 of that act granted to the President the power to engage in tariff bargaining and in connection therewith to enter into Executive trade agreements with foreign nations—a power similar in all respects to the first power granted to the President in the Foreign Trade Agreements Act. The constitutionality of the act was attacked upon two grounds—(1) that it contained an unconstitutional delegation of legislative power to the President, and (2) that it delegated to the President the power to make treaties in violation of the treaty-making power of the Constitution. After an extensive review of the history of congressional delegations of power to the President in connection with the regulation of commerce, the Court said (pp. 690–693):

It would seem to be unnecessary to make further reference to acts of Congress to show that the authority conferred upon the President by the third section of the act of October 1, 1890, is not an entirely new feature in the legislation of Congress, but has the sanction of many precedents in legislation. While some of these precedents are stronger than others, in their application to the case before us, they all show that, in the judgment of the legislative branch of the government, it is often desirable, if not essential for the protection of the interests of our people, against the unfriendly or discriminating regulations established by foreign governments, in the interests of their people, to invest the President with large discretion in matters arising out of the execution of statutes relating to trade and commerce with other nations. If the decision in the case of *The Brig Aurora* had never been rendered, the practical construction of the Constitution, as given by so many acts of Congress, and embracing almost the entire period of our national existence, should not be overruled, unless upon a conviction that such legislation was clearly incompatible with the supreme law of the land. *Stuart* v. *Laird*, 1 Cranch, 299, 309; *Martin* v. *Hunter*, 1 Wheat. 304, 351; *Cooley* v. *Port Wardens*, 12 How. 299, 315; *Lithographic Co.* v. *Sarony*, 111 U. S. 53, 57; *The Laura*, 114 U. S. 411, 416

"The authority given to the President by the act of June 4, 1794, to lay an embargo on all ships and vessels in the ports of the United States, 'whenever, in his opinion the public safety shall so require,' and under regulations, to be continued or revoked 'whenever he shall think proper;' by the act of February 9, 1799, to remit and discontinue, for the time being, the restraints and prohibitions which Congress had prescribed with respect to commercial intercourse with the French Republic, 'if he shall *deem* it expedient and consistent with the interest of the United States,' and 'to revoke such order, whenever, in his opinion, the interest of the United States shall require;' by the act of December 19, 1806, to suspend, for a named time, the operation of the non-importation act of the same year, 'if in his judgment the public interest should require it;' by the act of May 1, 1810, to revive a former act, as to Great Britain or France, if either country had not, by a named day, *so* revoked or modified its edicts as not 'to violate the neutral commerce of the United States;' by the act of March 3, 1815, and May 31, 1830, to declare the repeal, as to any foreign nation, of the several acts imposing duties on the tonnage of ships and vessels, and on goods,

wares, and merchandise imported into the United States, when he should be 'satisfied' that the discriminating duties of such foreign nation, 'so far as they operate to the disadvantage of the United States,' had been abolished; by the act of March 6, 1866, to declare the provisions of the act forbidding the importation into this country of neat cattle and the hides of neat cattle, to be inoperative, 'whenever in his judgment' their importation 'may be made without danger of the introduction or spread of contagious or infectious disease among the cattle of the United States;' must be regarded as unwarranted by the Constitution, if the contention of the appellants, in respect to the third section of the act of October 1, 1890, be sustained.

"That Congress cannot delegate legislative power to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution. The act of October 1, 1890, in the particular under consideration, is not inconsistent with that principle. It does not, in any real sense, invest the President with the power of legislation. For the purpose of securing reciprocal trade with countries producing and exporting sugar, molasses, coffee, tea, and hides, Congress itself determined that the provisions of the act of October 1, 1890, permitting the free introduction of such articles, should be suspended as to any country producing and exporting them, that imposed exactions and duties on the agricultural and other products of the United States, which the President deemed, that is, which he found to be, reciprocally unequal and unreasonable. Congress itself prescribed, in advance, the duties to be levied, collected and paid, on sugar, molasses, coffee, tea or hides, produced by or exported from such designated country, while the suspension lasted. Nothing involving the expediency or the just operation of such legislation was left to the determination of the President.

"The words, 'he may deem,' in the third section, of course, implied that the President would examine the commercial regulations of other countries producing and exporting sugar, molasses, coffee, tea and hides, and form a judgment as to whether they were reciprocally equal and reasonable, or the contrary, in their effect upon American products. But when he ascertained the fact that duties and exactions, reciprocally unequal and unreasonable, were imposed upon the agricultural or other products of the United States by a country producing and exporting sugar, molasses, coffee, tea or hides, it became his duty to issue a proclamation declaring the suspension, as to that country, which Congress had determined should occur. He had no discretion in the premises except in respect to the duration of the suspension so ordered. But that related only to the enforcement of the policy established by Congress. As the suspension was absolutely required when the President ascertained the existence of a particular fact, it cannot be said that in ascertaining that fact and in issuing his proclamation, in obedience to the legislative will, he exercised the function of making laws. Legislative power was exercised when Congress declared that the suspension should take effect upon a named contingency. What the President was required to do was simply in execution of the Act of Congress. It was not the making of law. He was the mere agent of the law-making department to ascertain and declare the event upon which its expressed will was to take effect. It was a part of the law itself as it left the hands of Congress that the provisions, full and complete in themselves, permitting the free introduction of sugars, molasses, coffee, tea and hides, from particular countries, should be suspended, in a given contingency, and that in case of such suspensions certain duties should be imposed.

* * * * * * *

"The court is of opinion that the third section of the act of October 1, 1890, is not liable to the objection that it transfers legislative and treaty-making power to the President.' [Italics supplied.]"

In the *Union Bridge Co.* v. *United States*, 204 U. S. 364, the Court quoted extensively and with approval from *Field* v. *Clark*. Other cases in which the courts have sustained trade agreements concluded by the President under powers granted him by the Tariff Acts of 1890 and 1897 are *Downs* v. *United States*, 187 U. S. 496; *Nicholas* v. *United States*, 122 Fed. 892; *United States* v. *Tartar Chemical Co.*, 127 Fed. 944; *United States* v. *Julius Wile Bros. & Co.*, 130 Fed. 331; *United States* v. *Luyties*, 130 Fed. 333; *Migliavacca Wine Co.* v. *United States*, 148 Fed. 142; *La Manna, Azema & Garnan* v. *United States*, 144 Fed. 683; and *Mihalovitch, Fletcher & Co.* v. *United States*, 160 Fed. 988.

II

Commercial agreements and arrangements (executive agreements—not including reciprocal trade agreements or arrangements concerning suspension of discriminatory tonnage duties or similar restrictions) between the United States and foreign countries which entered into force without being submitted to the Senate for its advice and consent to ratification

Year	Country	Subject
1784	France	Exchange of notes referring to Articles 2 and 3 of the Treaty of Amity and Commerce of February 6, 1778. Signed August 27, September 3 and 9, 1784. 2 Miller, Treaties (1931) 158.
1826	Society Islands	Articles signed at Raiatea September 8, 1826. Description of these Articles printed in 3 Miller, Treaties (1931) 256-260.
1826	Hawaii	Articles of arrangement with King of Sandwich Islands (Hawaii). Signed December 23, 1826. 3 Miller, Treaties (1931) 269-272.
1829	Austria	Exchange of notes concerning discriminating customs duties. Signed May 7 and 11, 1829. D. S., 1 Notes from Austrian Legation; D. S., 4 Notes to Foreign Legations, 183-184.
1839	Samoa	Commercial regulations signed by the Chiefs of the Samoan Islands on November 5, 1839. 4 Miller, Treaties (1931) 241-244.
1840	Fiji	Commercial regulations signed by native Chiefs of the Fiji Islands. Signed at various places in the Fiji Islands June 10, 1840, and on various other dates. 4 Miller, Treaties (1931) 275-279.
1842	Sulu	Agreement made by the Sultan of Sulu. Signed at Sooung (Jolo) February 5, 1842. 4 Miller, Treaties (1931) 349.
1853	Austria-Hungary	Agreement Concerning Admission of Tobacco. Signed December 24, 1853. 1 Malloy, Treaties (1910) 38.
1884	Spain	Agreement Concerning Commercial Relations. Signed at Madrid, January 2, 1884. 2 Malloy, Treaties (1910) 1680. U. S. Foreign Relations, (1884) 471-493. Basis—Sec. 2501, Tariff Act of 1883, 22 Stat. 491. This Agreement required the ratification of the Spanish Cortes. In order to avoid the delay which such action would necessitate, this Agreement was modified so as not to require ratification by the Cortes and signed in the modified form February 13, 1884. The latter Agreement superseded the former. Treaty Series 337.
1884	Spain	Agreement Respecting Reciprocal Abolition of Certain Discriminating Duties in the Ports of the United States and in Cuba and Porto Rico. Signed at Madrid, February 13, 1884. 2 Malloy, Treaties (1910) 1681. (Superseded the Agreement signed at Madrid, January 2, 1884.) Proclaimed, February 14, 1884, 23 Stat. 1835. 23 Stat. 750.
1891	Brazil	Commercial Arrangement. Signed January 31, 1891. Proclaimed February 5, 1891, 26 Stat. 1563. Effective April 1, 1891. Senate Exec. Doc. No. 119, 52d Cong., 1st Sess., p. 28; U. S. Foreign Relations (1891) 44-47. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.
1891	Dominican Republic	Commercial Arrangement. Signed June 4, 1891. Proclaimed August 1, 1891, 27 Stat. 980. Effective in the United States August 1, 1891. Id. at 48. Basis—Tariff Act of October 1, 1890, 26 Stat. 567. A repertory of Schedules A and B of the foregoing Commerical Arrangement, signed August 11, 1891, pursuant to provisions of the Commercial Arrangement of June 4, 1891, is referred to by some writers as a separate agreement. Treaty Series, 74, 75. Printed in Senate Exec. Doc. 119, 52d Cong., 1st Sess., pp. 48, 55.
1891	Spain for Cuba and Porto Rico.	Commercial Arrangement. Signed June 19, 1891. Proclaimed August 1, 1891, 27 Stat. 982. Transitory Schedule effective in the United States September 1, 1891; permanent Schedule effective July 1, 1892. Id. at 35. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.
1891	Guatemala	Commercial Arrangement. Signed December 30, 1891. Proclaimed May 18, 1892. 27 Stat. 1025. Effective in the United States May 18, 1892. Id. at 98. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.
1891	Salvador	Commercial Arrangement. Signed December 30, 1891. Proclaimed December 31, 1891, 27 Stat. 996, 1056. Effective in the United States December 31, 1891. Id. at 89. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.
1892	German Empire	Commercial Arrangement. Signed January 30, 1892. Proclaimed February 1, 1892, 27 Stat. 1004. Effective in the United States February 1, 1892. Id. at 108. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.
1892	Great Britain, for West India Colonies (not including Bermuda and the Bahamas), including Jamaica, Barbados, Trinidad (and Tobago), Leeward Islands (including Virgin Islands), Windward Islands (excluding Grenada), and British Guiana.	Commercial Arrangement. Signed February 1, 1892. Proclaimed February 1, 1892, 27 Stat. 999. Effective in the United States February 1, 1892 (effective as to British Guiana April 1, 1892). Id. at 82. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.

Commercial agreements and arrangements (executive agreements—not including reciprocal trade agreements or arrangements concerning suspension of discriminatory tonnage duties or similar restrictions) between the United States and foreign countries which entered into force without being submitted to the Senate for its advice and consent to ratification—Continued

Year	Country	Subject
1892	Nicaragua	Commercial Arrangement. Signed March 11, 1892. Proclaimed March 12, 1892, 27 Stat. 1009. Effective in the United States March 12, 1892. Id. at 94. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.
1892	France	Commercial Arrangement (Informal). Signed March 10-April 12, 1892. Archives, Despatches Vol. 107. 18 Clerq. Recueil des Traites de la France, 434-435. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.
1892	Honduras	Commercial Arrangement. Signed April 29, 1892. Proclaimed April 30, 1892, 27 Stat. 1023. Effective in the United States April 30, 1892. Senate Exec. Doc. No. 119, 52d Cong., 1st Sess., p. 103. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.
1892	Austria-Hungary	Commercial Arrangement. Signed May 25, 1892. Proclaimed May 26, 1892, 27 Stat. 1026. Effective in the United States May 26, 1892. Id. at 114. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.
1892	Salvador	Definitive Commercial Arrangement. Signed November 22-29, 1892. Proclaimed December 27, 1892 (27 Stat. 1056). Effective December 31, 1892. Despatches, Central America. Vol. 55, no. 249 from Managua. Basis—Tariff Act of October 1, 1890, 26 Stat. 567.
1895	Spain	Commercial Modus Vivendi. Signed January 10-11, 1895. U. S. Foreign Relations (1894) 632-633; (1895) Pt. 2, p. 1185.
1898	France	Reciprocal Commercial Agreement. Signed May 28, 1898. Proclaimed May 30, 1898, 30 Stat. 1898. Effective June 1, 1898. 1 Malloy, Treaties (1910) 542-543. Basis—Tariff Act of July 24, 1897. Treaty Series 98.
1899	Portugal	Reciprocal Commercial Arrangement. Signed May 22, 1899. Proclaimed June 12, 1900, 31 Stat. 1074. Effective June 12, 1900. 2 Malloy, Treaties (1910) 1463-1464. Basis—Tariff Act of July 24, 1897, 30 Stat. 151. Treaty Series 291.
1900	Italy	Reciprocal Commercial Arrangement. Signed February 8, 1900. Proclaimed July 18, 1900, 31 Stat. 1079. Effective July 18, 1900. 1 Malloy, Treaties (1910) 987-989. Basis—Tariff Act of July 24, 1897, 30 Stat. 151. Treaty Series 182.
1900	Germany	Reciprocal Commercial Arrangement. Signed July 10, 1900. Proclaimed July 13, 1900, 31 Stat. 1079. Effective July 13, 1900. Treaty Series 101. 1 Malloy, Treaties (1910) 558-559. Basis—Tariff Act of July 24, 1897, 30 Stat. 151.
1902	France	Amendatory Reciprocal Commercial Agreement. Signed August 20, 1902. Proclaimed August 22, 1902. Effective August 22, 1902. 1 Malloy, Treaties (1910) 543-544. Basis—Tariff Act of July 24, 1897, 30 Stat. 151. Treaty Series 410.
1902	Portugal	Additional and Amendatory Agreement to the Commercial Agreement of May 22, 1899. Signed November 19, 1902. Proclaimed January 24, 1907, 34 Stat. 3268. Effective January 24, 1907. Treaty Series 457; 2 Malloy, Treaties (1910) 1466. Basis—Tariff Act of July 24, 1897, 30 Stat. 151.
1906	Switzerland	Reciprocal Commercial Arrangement by Independent Action of the Government of Each Country. Proclaimed January 1, 1906, 34 Stat. 3185. Effective January 1, 1906. 2 Malloy, Treaties (1910) 1775-1776. Basis—Tariff Act of July 24, 1897, 30 Stat. 151.
1906	Germany	Special Commercial Arrangement. Signed February 18-19, 1906. Proclaimed February 27, 1906, 34 Stat. 3192. Effective in the United States March 1, 1906. U. S. Foreign Relations (1906) Pt. I, 643-644. 1 Malloy, Treaties (1910) 562-563. Basis—Tariff Act of July 24, 1897, 30 Stat. 151.
1906	Bulgaria	Commercial Arrangement. Signed June 5-6, 1906. Proclaimed September 15, 1906, 34 Stat. 3231. Effective in the United States September 30, 1906. U. S. Foreign Relations (1906) Pt. I, 141-142. 1 Malloy, Treaties (1910) 158-159. Basis—Tariff Act of July 24, 1897, 30 Stat. 151.
1906	Spain	Commercial Agreement. Signed August 1, 1906. Explanatory Notes exchanged at Madrid, December 20, 1906. Treaty Series 483; 2 Malloy, Treaties (1910) 1718-1721. Basis—Tariff Act of July 24, 1897, 30 Stat. 151. Proclaimed August 27, 1906, 34 Stat. 3227.
1907	Germany	Commercial Agreement. Signed April 22-May 2, 1907. Effective July 1, 1907. Treaty Series 460; 1 Malloy, Treaties (1910) 563-578. Basis—Tariff Act of July 24, 1897, 30 Stat. 151. Proclaimed June 1, 1907, 35 Stat. 2141.
1907	Netherlands	Commercial Agreement. Signed May 16, 1907. Proclaimed August 12, 1908, 35 Stat. 2198. Effective August 12, 1908. Treaty Series 505; 2 Malloy, Treaties (1910) 1275-1277. Basis—Tariff Act of July 24, 1897, 30 Stat. 151.
1907	Great Britain	Commercial Agreement. Signed November 19, 1907. Basis—Tariff Act of July 24, 1897, 30 Stat. 151. Treaty Series 468; 1 Malloy, Treaties (1910) 813. Proclaimed December 5, 1907, 35 Stat. 2163.
1908	France	Additional Commercial Agreement. Signed January 28, 1908. Effective February 1, 1908. 1 Malloy, Treaties (1910) 547-548. Basis—Tariff Act of July 24, 1897, 30 Stat. 151. Treaty Series 469. Proclaimed January 28, 1928, 35 Stat. 2178.

Commercial agreements and arrangements (executive agreements—not including reciprocal trade agreements or arrangements concerning suspension of discriminatory tonnage duties or similar restrictions) between the United States and foreign countries which entered into force without being submitted to the Senate for its advice and consent to ratification—Continued

Year	Country	Subject
1909	Spain	Supplemental Commercial Agreement effected by exchange of notes. Signed February 20, 1909. Effective February 20, 1909. Basis—Tariff Act of July 24, 1897, 30 Stat. 151. Proclaimed February 20, 1909, 35 Stat. 2229. Treaty Series 517; 2 Malloy, Treaties (1910) 1721-1722.
1909	Italy	Supplementary Commercial Agreement. Signed March 2, 1909. Proclaimed April 24, 1909, 36 Stat. 2492. Effective April 24, 1909. 1 Malloy, Treaties (1910) 994-995. Basis—Tariff Act of July 24, 1897, 30 Stat. 151.
1909	Austria-Hungary	Commercial Arrangement. (Application of the Administrative Provisions of the Commercial Agreement Between the United States and Germany to Austria-Hungary.) Signed July 22-October 25, 1909. U. S. Foreign Relations (1909) 21-29. Basis—Tariff Act of August 5, 1909, 36 Stat. 11.
1909	France	Commercial Arrangement. (Continued Enjoyment by France of Administrative Provisions of Commercial Agreement Between the United States and Germany.) Signed August 28, 1909. U. S. Foreign Relations (1909) 254-260. Basis—Tariff Act of August 5, 1909, 36 Stat. 11.
1010	Great Britain	Agreement Exempting Commercial Travelers' Samples from Customs Inspection. Signed December 3-8, 1910. Effective January 1, 1911. U. S. Foreign Relations (1910) 591-592. Treaty Series 552.
1910	Portugal	Commercial Arrangements. Signed June 29, 1910. Treaty Series 514½. U. S. Foreign Relations (1910) 828-831. Basis—Tariff Act of August 5, 1909, 36 Stat. 11.
1918	Russia	Protocol of Agreement Concerning Exportation of Embargoed Goods from Russia to the United States. Signed September 23, 1915. Effective September 23, 1915. 39 Stat. 1638; Treaty Series 618.
1923	Spain	Agreement Continuing in Force the Commercial Agreement signed August 1, 1906. Signed October 6-22, 1923. Treaty Series 693-A.
1923	Brazil	Agreement According Mutual Unconditional Most-Favored Nation Treatment in Customs Matters. Signed October 18, 1923. Treaty Series 672.
1923	Czechoslovakia	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed October 29, 1923. Effective November 5, 1923. Treaty Series 673-A.
1924	Spain	Agreement Continuing in Force the Agreement signed September 23, 1915. Signed April 26-27, 1924. Treaty Series 693-A.
1924	Nicaragua	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed June 11-July 11, 1924. Effective July 11, 1924. Treaty Series 697.
1924	Guatemala	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed August 14, 1924. Effective August 14, 1924. Treaty Series 696.
1924	Dominican Republic	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed September 25, 1924. Effective September 25, 1924. Treaty Series 700.
1924	Czechoslovakia	Agreement Prolonging Agreement of October 29, 1923 According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed December 5, 1924. Treaty Series 705.
1924	Greece	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed December 9, 1924. Effective December 9, 1924. Treaty Series 706.
1925	Poland	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed February 10, 1925. Effective February 10, 1925, subject to ratification by the Polish Diet. Treaty Series 727.
1925	Esthonia	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed March 2, 1925. Effective August 1, 1925. Treaty Series 722.
1925	Spain	Agreement Continuing in Force the Agreement Reached by an Exchange of Notes on April 26-27, 1924. Signed May 2, 1925. Treaty Series 716.
1925	Finland	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed May 2, 1925. Effective in so far as it concerns import and export duties, May 17, 1925, in respect of all other matters, December 11, 1925. Treaty Series 715.
1925	Lithuania	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed December 23, 1925. Effective July 10, 1926. Treaty Series 742.
1926	Latvia	Provisional Commercial Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed February 1, 1926. Effective April 30, 1926. Treaty Series 740.
1926	Rumania	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed February 26, 1926. Effective February 26, 1926. Treaty Series 733.
1926	Haiti	Agreement According Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters. Signed July 8, 1926. Effective October 1, 1926. Treaty Series 746.

Commercial agreements and arrangements (executive agreements—not including reciprocal trade agreements or arrangements concerning suspension of discriminatory tonnage duties or similar restrictions) between the United States and foreign countries which entered into force without being submitted to the Senate for its advice and consent to ratification—Continued

Year	Country	Subject
1927	Spain	Agreement Extending the Existing Commercial Regime Between the United States and Spain. Signed October 26-November 7, 1927. Effective November 27, 1927. Treaty Series 758-A.
1927	France	Modus Vivendi re Tariff Matters. Notes exchanged November 2, 7, 16, 1927. Western European Series No. 1, State Department Publication No. 30.
1928	Persia	Provisional Agreement—Commercial Relations. Signed May 14, 1928. Effective Retroactively May 10, 1928. Executive Agreement Series No. 19.
1930	Egypt	Provisional Commercial Agreement Providing for Most-Favored-Nation Treatment in Customs Matters. Signed May 24, 1930. Effective May 24, 1930. 47 Stat. 2582; Executive Agreement Series No. 5.
1930	Rumania	Provisional Commercial Agreement Providing for Most-Favored-Nation Treatment in Customs Matters. Signed August 20, 1930. Effective September 1, 1930. 47 Stat. 2593; Executive Agreement Series No. 8.
1931	Chile	Provisional Agreement—Commercial Relations. Signed September 28, 1931. Effective September 28, 1931. (Retroactive from May 22, 1931, in respect of certain tariff concessions accorded to France.) 47 Stat. 2682; Executive Agreement Series No. 26.
1932	Bulgaria	Provisional Agreement—Commercial Relations. Signed August 18, 1932. 48 Stat. 1753; Executive Agreement Series No. 41. (Effective August 18, 1932.)
1933	Saudi Arabia	Provisional Agreement in regard to diplomatic and consular representation, judicial protection, commerce and navigation. Signed November 7, 1933. Effective November 7, 1933. 48 Stat. 1826; Executive Agreement Series No. 53.
1935	Czechoslovakia	Exchange of Notes amending commercial agreement of October 29, 1923, as prolonged by agreement of December 5, 1924. Signed March 29, 1936. Effective May 1, 1935. 49 Stat. 3674; Executive Agreement Series No. 74.
1935	Union of Soviet Socialist Republics.	Exchange of Notes Concerning Commercial Relations. Signed July 13, 1935. Effective July 13, 1935. 49 Stat. 3805; Executive Agreement Series No. 81.
1935	Japan	Arrangement for limitation of importation of Japanese cotton piece goods into the Philippine Islands. Initialed October 11, 1935. Effective as from August 1, 1935. Not printed; for information regarding the arrangement see State Department Press Releases, Saturday, July 31, 1937.
1936	Ecuador	Provisional Commercial Agreement effected by exchange of notes. Signed June 12, 1936. Effective June 12, 1936. 49 Stat. 4013; Executive Agreement Series No. 93.
1936	Union of Soviet Socialist Republics.	Agreement continuing commercial agreement of July 13, 1935. Signed July 11, 1936. Effective July 13, 1936. 50 Stat. 1433; Executive Agreement Series No. 96.
1937	Japan	Arrangement extending cotton piece goods arrangement of October 11, 1935. Initialed July 2, 1937. Not printed; for information regarding the arrangement see State Department Press Releases, Saturday July 31, 1937.
1937	Union of Soviet Socialist Republics.	Exchange of Notes regarding commercial relations. Signed August 4, 1937. Effective August 6, 1937. Proclaimed August 6, 1937. 50 Stat. 1619; Executive Agreement Series No. 105.
1937	Italy	Exchange of Notes concerning most-favored-nation treatment. Signed December 16, 1937. Effective as of December 15, 1937. 51 Stat. 361; Executive Agreement Series No. 116.
1938	Chile	Provisional Commercial Agreement effected by exchange of notes. Signed January 6 and February 1, 1938. Effective provisionally February 1, 1938. 52 Stat. 1479; Executive Agreement Series No. 119.
1938	Venezuela	Provisional Commercial Agreement effected by exchange of notes. Signed May 12, 1938. Effective May 12, 1938. 52 Stat. 1493; Executive Agreement Series No. 122.
1938	Japan	Arrangement continuing in force the Arrangement of October 11, 1935 concerning cotton piece goods. Initialed July 22, 1938. Not printed; for information regarding the arrangement see State Department Press Releases, Saturday July 31, 1937, Saturday July 30, 1938.
1938	Union of Soviet Socialist Republics.	Exchange of Notes continuing in force commercial agreement of August 4, 1937. Signed August 5, 1938. Effective August 6, 1938. Proclaimed August 5, 1938. Executive Agreement Series No. 132.
1938	Greece	Provisional Commercial Agreement effected by exchange of notes. Signed November 15, 1938. Effective January 1, 1939. Executive Agreement Series No. 137.
1939	Chile	Provisional Commercial Agreement effected by exchange of notes. Signed February 20 and 24, 1939. Effective provisionally as of February 1, 1939. Executive Agreement Series No. 144.

III

List of commercial agreements and arrangements (executive agreements—not including reciprocal trade agreements or arrangements concerning suspension of discriminatory tonnage duties or similar restrictions) between the United States and foreign countries which entered into force without being submitted to the Senate for its advice and consent to ratification, supplemental to the list appended to an article on the constitutionality of The Trade Agreements Act by former Assistant Secretary of State Sayre in the Columbia Law Review for May 1939 (Vol. 39, Col. Law Rev., pp. 751–775)

[Department of State, March 1947]

Year	Country	Subject
1922	Albania	Agreement relating to most-favored-nation treatment and other matters. Signed June 23 and 25, 1922. Effective July 28, 1922. 1 Foreign Relations 1925, 511.
1936	France	Agreement for the suppression of fraud upon customs revenue. Effected by exchange of notes. Signed December 10 and 12, 1936. 50 Stat. 1468; Executive Agreement Series 99.
1938	Bulgaria	Agreement for the waiver of legalization on certificates of origin. Signed January 5, 1938. Effective January 5, 1938. 52 Stat. 1509; Executive Agreement Series 124.
1938	Czechoslovakia	Agreement concerning the treatment accorded motion-picture films, and related notes. Signed May 18, 1938. Effective June 1, 1938. 52 Stat. 1517; Executive Agreement Series 126.
1938	France	Agreement concerning entry of commercial samples and models imported temporarily. Signed August 26, 1938, and supplementary notes signed September 22 and October 7, 1938. Effective August 26, 1938. Not printed.
1939	Venezuela	Commercial Relations—Agreement effected by exchange of notes continuing in force the provisional commercial agreement of May 12, 1938. Signed May 9, 1939. Effective May 9, 1939. Executive Agreement Series 148.
1939	Great Britain	Agreement for the exchange of certain reserve stocks of cotton and rubber. Signed June 23, 1939. Proclaimed September 6, 1939. Effective August 25, 1939. 54 Stat. 1411; Treaty Series 947.
1939	Union of Soviet Socialist Republics.	Commercial Relations—Agreement continuing in force until August 6, 1940, the agreement of August 4, 1937. Effected by exchange of notes. Signed August 2, 1939. Proclaimed August 4, 1939. Effective August 6, 1939. 53 Stat. 2404; Executive Agreement Series 151.
1940	Union of Soviet Socialist Republics.	Commercial Relations—Agreement continuing in force until August 6, 1941, the agreement of August 4, 1937. Effected by exchange of notes. Signed August 6, 1940. Proclaimed August 7, 1940. Effective August 6, 1940. 54 Stat. 2366; Executive Agreement Series 179.
1941	Union of Soviet Socialist Republics.	Commercial Relations—Agreement continuing in force until August 6, 1942, the agreement of August 4, 1937. Effected by exchange of notes. Signed August 2, 1941. Proclaimed August 6, 1941. Effective August 6, 1941. 55 Stat. 1316; Executive Agreement Series 215.
1942	Union of Soviet Socialist Republics.	Commercial Relations—Agreement continuing in force the agreement of August 4, 1937. Effected by exchange of notes. Signed July 31, 1942. Proclaimed August 1, 1942. Effective August 6, 1942. Executive Agreement Series 265.
1942	Dominican Republic	Commercial Relations—Agreement relating to waiver in respect of Tariff Preferences Accorded Haiti by the Dominican Republic under a Treaty of Commerce between the Dominican Republic and Haiti signed August 26, 1941, as modified by an exchange of notes signed March 24, 1942. Effected by exchange of notes. Signed November 14, 1942. Executive Agreement Series 274.
1945	Chile	Commercial Relations—Agreement effected by exchange of notes signed July 30, 1945. Treaties and Other International Acts Series 1529.
1945	Great Britain	Financial Agreement—Agreement effected by exchange of notes. Signed December 6, 1945. Effective July 15, 1946. Carrying out authorized—Public Law 509, 79th Cong. Treaties and Other International Acts Series 1545.
1946	Yemen	Friendship and Cooperation—Agreement effected by exchange of notes. Signed May 4, 1946. Effective May 4, 1946. Treaties and Other International Acts Series 1535.
1946	France	Exhibition of Motion Pictures in France. Understanding with the Provisional Government of France. Signed May 26, 1946. Effective July 1, 1946. Department of State, Press Release No. 360 of May 28, 1946.
1946	Philippines	Agreement concerning Trade and Related Matters during a Transitional Period and amendatory exchange of notes. Signed July 4, 1946, and October 22, 1946. Basis—Philippine Trade Act of 1946, Public Law 371, 79th Cong. Department of State, Press Release No. 914 of December 18, 1946.
1946	Chile	Commercial Relations—Agreement effected by an exchange of notes. Signed July 29 and 30, 1946, extending agreement of July 30, 1945. Effective July 31, 1946. Treaties and Other International Acts Series 1529.
1946	Czechoslovakia	Commercial Policy—Agreement effected by exchange of notes. Signed November 14, 1946. Effective November 14, 1946. Treaties and Other International Acts Series 1560.

EXHIBIT XVIII–D

MEMORANDUM FROM THE LEGAL ADVISER, DEPARTMENT OF STATE

The use of the term "Multilateral Convention" in article 59 of the draft charter for an International Trade Organization does not necessarily connote a treaty which in the technical sense of the usage of that word in article II, section 2, of the Constitution of the United States must be submitted to the Senate for its advice and consent. The term is employed in the draft charter in its international sense of an international agreement binding upon two or more states and establishing in international law certain relations between them. Whether a particular international agreement of the kind contemplated in article 59 will be a treaty within the meaning of article II, section 2, of the Constitution is a question of domestic constitutional law and the designation given to such an agreement by the parties thereto will not and cannot determine this question.

An international agreement between two or more states may be given by the parties thereto any one of a number of designations:

"The name by which an instrument is designated, * * * is, juridically speaking, an immaterial matter. As there is no rule of international law or practice which requires treaties to be concluded in any particular form, so there is none which requires them to be labelled with any particular name. As to this Hudson remarks:

"'To some extent the various forms [of treaties] are but names given to instruments; and it would be impossible to say that all international conferences are guided by logical rules in the choice of names. * * * In practice, though some recognized differences may be said to exist, the choice is frequently casual. No particular form is required to furnish the submission element necessary for international legislation, and forms not strictly consensual may be employed; interesting examples of this may be found in the recent development of what may be called international constitutional law. In many cases no name is designated in the instrument itself. 1 International Legislation (1931, p. xv.)'

"The names actually employed today for the designation of instruments comprised under the generic term 'treaties' are already numerous, and in recent years there has been a marked tendency to multiply them and to employ them without discrimination and without regard to the rules of logic and consistency. In addition to the terms 'treaty' and convention', which in earlier times were employed almost exclusively to designate the instruments which are considered today as treaties in the generic sense, there have come into use on a wide scale such terms as 'protocol', 'agreement', 'arrangement', 'accord', 'act', 'general act', 'declaration', 'modus vivendi', 'statute', 'regulations', 'provisions', 'pact', 'covenant', 'compromise', etc. In fact, the number of instruments designated by these terms is now in excess of those styled 'treaties' and 'conventions.'

"An examination of the more than 300 multipartite instruments concluded during the years 1919–29 reproduced or referred to in Hudson, International Legislation (I, pp. lxii-xcviii), indicates that only 18 are designated as 'treaties' and 122 as 'conventions'; 105 are designated as 'protocols', 39 as 'agreements', 9 as 'statutes', 12 as 'declarations', 5 as 'arrangements', 7 as 'provisions', 2 as 'general acts', 2 as 'additional acts', and several as 'regulations' (règlements). Of the 'treaties and other international acts' to which the United States was a party and which were listed by the Department of State as being in force on December 31, 1932, 123 were 'treaties', 208 were 'conventions', 102 were 'agreements' (many of them being in the form of exchanges of notes), 55 were 'arrangements' (many of which were also in the form of exchanges of notes), 35 were 'protocols', 26 were actually designated by their own terms as 'exchanges of notes', 8 as 'declarations', 2 as 'general regulations', 2 as 'general acts', 1 as an 'additional act', 1 as a 'modus vivendi', and 1 as a 'compact'. These statistics were compiled from a list published in the Treaty Information Bulletin of the Department of State, supplement to Bulletin No. 39, December 1932. * * *"

"Instruments recording international engagements differing in no respect in their juridical character or object and sometimes but little if any in form, are variously styled 'treaties', 'conventions', 'protocols', 'agreements', etc., with little regard to logic or consistency. Sometimes the same instrument is designated in different places in its text by different terms. * * *.

"As a result of such loose usage, a scientific classification of treaties based on the terminology now employed is quite impossible * * *" (Research in International Law, Draft Convention on the Law of Treaties (Harvard Law School) (29 A. J. I. L. Supp. (1935) 711–713).

The material quoted is ample evidence that the designation applied to an international agreement by the parties, particularly where there are many parties as in the case of the draft charter for an International Trade Organization, is of itself not controlling for the purposes of determining under the municipal law of each nation what governmental branches or organs are to participate in the agreement-making process involving that agreement.

This Government, it is true, usually has regarded international agreements designated as conventions as treaties in the constitutional sense. Then the same consequences have atached for the purposes of the constitutional provision:

"As treaties and conventions do not differ as regards their structure, their preambles and their concluding articles with reference to ratification and denouncement being similar, and they are signed and sealed in the same manner by empowered plenipotentiaries, the two terms are now used indiscriminately at the pleasure of the parties. Therefore, no distinction is made by the Department of State in respect of them, its treatment of them being the same. Both are sent to the Senate for advice and consent to ratification, both are ratified and their ratifications are exchanged, and both are proclaimed by the President in the same manner." (V. Hackworth, Digest of International Law (1943) p. 3.)

However, the fortuitous choice by the signatories of the name "convention" did not in and of itself determine whether the agreement was to be submitted as a treaty to the Senate for its advice and consent pursuant to article II, section 2, of the Constitution. There are numerous international agreements to which the United States has been or is a party and which, although they are designated in the texts as conventions, are not treaties within the meaning of the constitutional requirement of submission to the Senate for its advice and consent:

International agreements designated as conventions and not regarded as treaties for the purposes of article II, section 2, of the Constitution

A. EXECUTIVE AGREEMENTS

1846, Nov. 16, United States and Venezuela.	Convention for the Settlement of the Case of the brig *Native*, signed at Caracas.	5 Miller 103.
1846, Nov. 16, United States and Venezuela.	Convention for the Final Settlement of the Case of the brig *Josephine*, signed at Caracas.	5 Miller 109.
1848, Apr. 12, United States and Venezuela.	Convention for the Settlement of the Case of the brig *Sarah Wilson*, signed at Caracas.	5 Miller 429.
1849, July 7, United States and Venezuela.	Convention for the Settlement of the Claim Arising Out of the Seizure and Detention of the brig *Mount Vernon*, signed at Caracas.	5 Miller 587.
1850, Feb. 9, United States and Ecuador.	Convention for the Settlement of the Case of the brig *Morris*, signed at Quito.	5 Miller 665.
1853, Feb. 5, United States and Ecuador.	Conventions for the Settlement of the Case of the brig *Native*, signed at Guayaquil.	6 Miller 105.
1853, June 1, United States and Venezuela.	Convention for the Payment of Claims Arising From the Venezuelan *Ley de Espera* of Apr. 1, 1849, signed at Caracas.	6 Miller 197.
1858, Feb. 27, United States and Venezuela.	Convention for the Settlement of the Case of the brig *Horatio*, signed at Caracas.	7 Miller 727.
1902, Apr. 28, United States and Dominican Republic.	Two Conventions Providing for the Settlement of the Claim of Madam Sala and Other successors of the Firm of J. Sala & Co., of New York, both signed at Santo Domingo.	U. S. Treaty Series 435.

B. EXECUTIVE AGREEMENTS PURSUANT TO PRIOR SENATE APPROVAL BY SIMPLE SENATE RESOLUTION

1927, Aug. 16, United States and Mexico.	Convention for the Extension of the Duration of the Commission Constituted Pursuant to the Convention Concluded on Sept. 8, 1923; signed at Washington.	U. S. Treaty Series 758; 45 Stat. 2453.
1929, Sept. 2, United States and Mexico.	Convention Further Extending the Duration of the Commission Constituted Pursuant to the Convention Concluded on Sept. 8, 1923; signed at Mexico City.	U. S. Treaty Series 801; 46 Stat. 2393.
1929, Aug. 17, United States and Mexico.	Convention Further Extending the Duration of the Special Claims Commission Constituted Pursuant to the Convention Concluded on Sept. 10, 1923; signed at Washington.	U. S. Treaty Series 802; 46 Stat. 2417.
1932, June 16, United States and Mexico.	Convention Further Extending the Duration of the General Claims Commission Provided for in the Convention of Sept. 8, 1923; signed at Mexico City.	U. S. Treaty Series 883; 49 Stat. 3128.

C. EXECUTIVE AGREEMENTS PURSUANT TO AN ACT OF CONGRESS

(*Multilateral.*—Postal conventions: The Postmaster General by and with the advice and consent of the President may negotiate and conclude postal treaties or conventions (5 U. S. C. § 377) and money-order exchanges with the post departments of foreign Governments, with which postal conventions have been, or may be, concluded (39 U. S. C. § 712). The following are examples of such conventions:)

1936, Dec. 22	Convention of the Postal Union of the Americas and Spain, signed at Panama.	50 Stat. 1657.
1939, May 23	Universal Postal Union Convention, signed at Buenos Aires.	54 Stat. 2049.

The very word "treaty" in the international sense includes more classes of instruments which are international agreements than the class submitted for the advice and consent of the Senate. Other international arrangements, such, for example, as those approved by a majority of both houses may properly be termed, for the purposes of international usage, "treaties" notwithstanding the fact that they are not submitted for the advice and consent of the Senate alone for two-thirds concurrence. And, the Congress has itself on occasion so employed the term "treaty." Thus, in legislation authorizing postal arrangements with foreign countries, it provided:

"For the purpose of making better postal arrangements with foreign countries, or to counteract their adverse measures affecting our postal intercourse with them, the Postmaster General, by and with the advice and consent of the President, may negotiate and conclude postal *treaties* or *conventions*, [italics added] and may reduce or increase the rates of postage or other charges on mail matter conveyed between the United States and foreign countries: *Provided*, That the decisions of the Postmaster General construing or interpreting the provisions of any *treaty* or *convention* [italics added] which has been or may be negotiated and concluded shall, if approved by the President, be final and conclusive upon all officers of the United States" (5 U. S. C. § 372).

EXHIBIT XIX–A

THE LIBRARY OF CONGRESS

LEGISLATIVE REFERENCE SERVICE

Washington 25, D. C.

QUANTITATIVE RESTRICTIONS ON FOREIGN TRADE IMPOSED BY THE UNITED STATES[1]

The following tabulation summarizes what might be called the more permanent—or at least the non-wartime—quantitative restrictions imposed by the United States on foreign trade. It does not include tariff duties or import excise taxes, which, of course, are also restrictive of trade in greater or lesser degree. Although the list is not complete it includes the more important of such measures.

I. RESTRICTIONS OF IMPORTS

A. By Legislative Authority.

Item	Type of restriction	Reference
Agricultural products: Powers of President to limit imports under the Agricultural Adjustment Act (sec. 22)—under the law, the following actions have been taken:	President has the power to impose fees or levy quotas on *imports* that "Render, or tend to render ineffective or materially interfere with any program" under the Agricultural Adjustment Act, after investigation by U. S. Tariff Commission.	7 U. S. C. 624 (May 1933 and amendments).
Raw cotton and cotton waste (short staple).	Subject to quotas since Sept. 20, 1939, under Presidential Proclamation.	T. D. 49956 and T. D. 50603.
Long staple cotton (over 1⅛" in length).	Absolute quota of 45,656,420 pounds under Presidential Proclamation of Sept. 20, 1939.	T. D. 49956, T. D. 50681.

[1] The information herein contained is based upon published and unpublished material made available by the U. S. Tariff Commission and the Office of International Trade (Department of Commerce).

I. RESTRICTION OF IMPORTS—continued

A. By Legislative Authority—Continued

Item	Type of restriction	Reference
Agriculture products—Con.		
Wheat and wheat flour	Subject to quotas since 1941, under Presidential Proclamation: Wheat—800,000 bushels. Wheat flour—4,000,000 lbs. Quota specified by countries.	T. D. 50404, T. D. 50609, T. D. 50863.
Animals	Authorization of the President to suspend importation of all animals to protect animals in the U. S. against infectious or contagious diseases.	Title 21, U. S. C. 101.
	Control of imports and shipments of cattle or other livestock from areas afflicted with hoof-and-mouth disease, etc.	Title 21, U. S. C. 121.
	Prohibition of importation of diseased animals or meat from infected areas.	Title 21, U. S. C. 103-4; Title 19, U. S. C. 1306.
Birds, etc.	Prohibition of importation of "flying foxes," English sparrows, starlings, and other birds or animals injurious to interests of agriculture or horticulture.	Title 18, U. S. C. 391.
Migratory birds	Prohibition against importation of migratory birds.	Title 16, U. S. C. 703.
Salmon	Prohibition of importation into Alaska during closed seasons.	Title 48, U. S. C. 224.
Honeybees	Imports prohibited unless Secretary of Agriculture certifies they are from uninfected areas.	Title 7, U. S. C. 280.
Immoral articles	Prohibition of importation, including contraceptives and lottery tickets.	Title 19, U. S. C. 1305.
Obscene books	Imports prohibited	Title 18, U. S. C. 396.
Narcotics	Regulation of imports	Title 21, U. S. C. 173.
	Opium (importation by Chinese nationals prohibited).	Title 21, U. S. C. 191.
	Opium (limitation of imports of crude opium).	Title 21, U. S. C. 188.
	Marihuana (imports regulated)	Title 26, U. S. C. 2593.
Nursery stock	Importation prohibited except by permit of Secretary of Agriculture (to prevent spread of plant disease).	Title 7, U. S. C. 154; Title 7, U. S. C. 159.
Toxins, antitoxins and *serums* for treatment of animals.	Importation allowed only under permit by Secretary of Agriculture.	Title 42, U. S. C. 141; Title 21, U. S. C. 152-3.
Misbranded or *adulterated merchandise.*	Imports prohibited	Title 15, U. S. C. 405; Title 7, U. S. C. 134; Title 21, U. S. C. 18.
Goods bearing simulated trade names or *trade-marks.*	Imports prohibited	Title 15, U. S. C. 106.
Convict-made goods	Imports prohibited	Title 18, U. S. C. 396 (a); Title 19, U. S. C. 1307.
Discrimination	Exclusion of imports from countries found by the President to be discriminating against U. S. commerce.	Title 19, U. S. C. 181.
Natural gas	Control of imports	Title 15, U. S. C. 717 (b).
Firearms	Regulation of imports	Title 26, U. S. C. 2728.
White Phosphorous matches	Imports prohibited	Title 26, U. S. C. 2654.
Gold	Imports regulated	Title 31, U. S. C. 443.
Halibut	Prohibition of all but nationals or inhabitants of U. S. to fish for halibut in territorial waters of U. S.	Title 16, U. S. C. 772 (b).

B. Absolute Quotas.

Silver fox furs	Absolute quota of 100,000 foxes and furs, and separate quotas for tails, paws, etc. Quota is allocated by countries. Quotas ineffective after May 1 in each quota period.	Supplemental Trade Agreement with Canada, Jan. 1, 1940.
Coffee	Basic annual absolute quota of 15,545,000 bags of 60 kilograms net. Quotas subject to change to adjust supplies to domestic requirements in the U. S.	Inter-American Coffee Agreement (Nov. 28, 1940); Joint Resolution approved on April 11, 1941, 55 Stat. 133-34 (T. D. 50372).
Sugar . . . not above 75 sugar degrees.	Quotas suspended since April 13, 1942 by Presidential Proclamation. Authority still on the books, however.	Jones-Costigan Act of 1934, and continued by Sugar act of 1937. Extended to June 30, 1947 by Act approved June 20, 1944 (58 Stat. 283).

I. RESTRICTION OF IMPORTS—continued

C. "Tariff" Quotas.

Item	Type of restriction	Reference
Seed potatoes, white	Subject to seasonal tariff quota. Reduced rates apply up to 1,500,000 bu. Full rates beyond that quantity.	Canadian Trade Agreement.
Other than seed potatoes (not from Cuba).	Seasonal tariff quota. Reduced rates apply up to 1,000,000 bu. Full rates beyond that quantity. Quota may be increased if U. S. production falls below normal.	Canadian Trade Agreement.
Cigar wrapper tobacco	Under 1934 Agreement with Cuba all dutiable Cuban tobacco was subject to an annual absolute import quota equal to 18% of quantity of tobacco used in manufacture of cigars in the U. S. *Terminated March 16, 1956.*	Trade Agreements with Cuba and the Netherlands.
Filler and scrap tobacco from Cuba.	Tariff quota of 22,000,000 pounds at reduced rates. Imports in excess remain subject to old rates of duty.	T. D. 50541.
Fish (cod, haddock, hake, pollock, cusk, and rosefish).	Tariff quota provides reduced rates on imports to 15,000,000 pounds or 15% of U. S. consumption. All over that amount pays full rate.	Trade Agreement with Canada.
Whole milk	Tariff quota of 3,000,000 gal. per year at reduced rate of duty. All above that pays full duty.	Canadian Trade Agreement (1939).
Cream	Tariff quota of 1,500,000 gal. per year at reduced rate of duty. All above that pays full duty.	Canadian Trade Agreement (1939).
Red-cedar shingles	(Free of duty) Right is reserved to impose a duty of up to 25 cents per square on quantities in excess of not less than 30% of annual average for preceding 3 years of combined total of domestic shipments and imports.	Canadian Trade Agreement (1939).
	This right was exercised by Congress on July 1, 1940 when a duty was imposed on the quantity above that indicated above.	54 Stat. 708.
Molasses and *sugar sirups*, n. s. p. f., containing soluble non-sugar solids equal to more than 6% of total soluble solids.	Rate of duty reduced on quota of 1,500,000 gals. per calendar year. All above that subject to former rates.	U. K. Trade Agreement (1939).
Cattle:		
Less than 175 lb. each	Reduced rate (1½¢ lb.) on quota of 51,933 head. All above that subject to full rate (2½¢ lb.).	Canadian Trade Agreement (1936).
Less than 200 lb. ea.	Quantity entitled to entry at reduced rate from Jan. 1, 1939, to Jan. 29, 1943, limited to 100,000 head per calendar year. The rate on entries in excess bound against increase at 2½¢ lb. The tariff quota was superseded, effective Jan. 30, 1943, when all entries became dutiable at 1½¢ lb. Agreement with Mexico provides for restoration of tariff quota of 100,000 head per calendar year, with entries in excess dutiable at 2½¢ lb., to become effective by Presidential Proclamation after termination of the unlimited national emergency proclaimed May 27, 1941.	Canadian Trade Agreement (1939) and Mexican Trade Agreement (1943).
Over 200 lb., but less than 700 lb. ea.	No tariff quota now applicable. Agreement with Mexico provides for a tariff quota to become effective by Presidential Proclamation after termination of unlimited national emergency proclaimed May 27, 1941, at which time quantity entitled to entry at 1½¢ lb. will be limited to 110,000 head per calendar quarter-year, and to 400,000 head per calendar year, with entries in excess subject to duty at 2½¢ lb.	Mexican Trade Agreement (1943).
700 lbs. or more each		
Dairy cows	Quantity entitled to enter at reduced rate limited to 20,000 head per calendar year from Jan. 1, 1936, to Dec. 31, 1938. No tariff-quota limitation applies since Jan. 1, 1939.	Canadian Trade Agreement (1936 and 1939).

I. RESTRICTIONS OF IMPORTS—continued

C. "Tariff" Quotas—Continued

Item	Type of restriction	Reference
Cattle—Continued 700 lbs or more each *Other*	Quantity entitled to entry at reduced rate from Jan. 1, 1936 to Dec. 31, 1938 was limited to 155,799 head per calendar year; from Jan. 1, 1939 to Jan. 29, 1943, the quantity so limited was 60,000 head per calendar quarter-year and 225,000 per calendar year. The rate on entries in excess bound against increase at 3¢ lb. Allocation of imports of these cattle was put into effect Apr. 1, 1939, and continued through the years 1940-42 on the basis of 86.2 percent for Canada and 13.8 for other countries. (T. D. 49811, 50032, 50285, and 50534.) Quota superseded Jan. 30, 1943, but agreement with Mexico provides for similar tariff quotas to become effective by Presidential proclamation after termination of unlimited national emergency proclaimed on May 27, 1941, entries in excess of the quotas to be dutiable at 2½¢ lb.	Canadian Trade Agreements (1936 and 1939) and Mexican Trade Agreement (1943).

D. Quotas on Imports from the Philippines

"Section 13 of the Philippine Independence Act of 1934 provided that on and after the date of independence of the Philippines (July 4, 1946), all Philippine articles should be subject to full United States duties. However, this provision was repealed by the Philippine Trade Act of 1946, approved by the President on April 30, 1946 (Public Law 371, 79th Cong.). The latter Act prohibits export taxes on Philippine articles shipped to the United States and provides for the continued free entry of such articles during the period May 1, 1946, to July 3, 1954, but it limits the quantity of the most important of them which may be entered for consumption in the United States each year. The annual absolute quotas are as follows:

Sugar: 952,000 short tons (850,000 long tons) of which 56,000 short tons (50,000 long tons) may be refined sugars.
Cordage: 6,000,000 pounds.
Rice: 1,040,000 pounds.
Cigars: 200,000 cigars.
Scrap tobacco and filler tobacco: 6,500,000 pounds.
Coconut oil: 200,000 long tons.
Buttons of pearl or shell: 850,000 gross.

"Effective July 4, 1954, imports of Philippine articles (other than cigars, scrap and filler tobacco, coconut oil, and buttons of pearl or shell) will be subject to duty. In the period July 4, 1954, to December 31, 1954, such duty is to be 5 percent of the lowest rate assessable by the United States on like articles produced in any other foreign country. During the calendar year 1955 the duty is to be 10 percent of such lowest duty, and thereafter an additional 5 percent of the existing lowest United States duties is added on January 1 of each year until and including January 1, 1973. From that date to July 3, 1974, 100 percent of the lowest duty is applicable. On July 4, 1974, all tariff preferences accorded Philippine products are scheduled to terminate.

"Cigars, scrap and filler tobacco, coconut oil, and buttons of pearl or shell are subject, in lieu of the progressively increasing rates of duty, to progressively decreasing duty-free quotas; imports in excess of the duty-free quota (but within the absolute quota) are subject to duty, i. e., the lowest duty assessable on like products of any other foreign country. During each of the calendar years 1946 to 1954, both years inclusive, the duty-free quotas are in the same quantities as the absolute quotas on these products. Beginning January 1, 1955, the duty-free quotas are decreased by 5 percent of the original quotas, and each year thereafter by an additional 5 percent of the original quotas, until in 1974 the duty-free quotas are zero. The absolute quotas on these products, like those on the other products listed, remain throughout the period ending in 1974 as the legal ceiling on imports."[1]

[1] Quoted from United States Import Duties, Department of State, Publication 2540, Commercial Policy Series 87, Washington, D. C., June 1946, pp. 7–8.

II. RESTRICTION OF EXPORTS

Item	Type of restriction	Reference
War materials	Control of exports by the President	Title 22, U. S. C. 409.
Firearms	Regulation of exports	Title 26, U. S. C. 2727.
White, phosphorous matches	Exports prohibited	Title 26, U. S. C. 2655.
Marihuana	Exports regulated	Title 26, U. S. C. 2591.
Migratory birds	Exports prohibited	Title 16, U. S. C. 703.
Helium gas	Exports prohibited, except under license by Secretary of State.	Title 50, U. S. C. 165.
Guano	Prohibition of exports to foreign countries from any island or area belonging to U. S.	Title 48, U. S. C. 1415.
Tobacco seed	Prohibition of exports of tobacco seed and/or live tobacco plants except for experimental purposes, upon certificate by Secretary of Agriculture (June 5, 1940).	Title 7, U. S. C. 516.
Narcotics	Exports prohibited	Title 21, U. S. C. 182.
Natural gas	Exports regulated	Title 15, U. S. C. 717 (b).
Diseased livestock and live poultry.	Exports prohibited	Title 21, U. S. C. 113.
Gold	Exports regulated	Title 31, U. S. C. 443.
Atomic knowledge	Exported prohibited (Aug. 1, 1946)	P. L. 585 (79th Cong.).

EXHIBIT XIX-B

Direct subsidies of the U. S. Department of Agriculture

[NOTE.—All of these subsidies are now suspended except those on raw cotton and potatoes]

Commodity	Authority	Date inaugurated	Total expenditure to June 30, 1946	Estimated expenditure, fiscal year 1947
Butter	Agricultural Adjustment Act, 1933 (as amended) sec. 32.	April 1938	$32,700	
Raw cotton	do	October 1933	[1] 39,201,000	
		July 1939		
		September 1941	60,780,000	
	Surplus Property Act of 1944, sec. 21 (c).	November 1944		
	Agricultural Adjustment Act, 1933 (as amended) sec. 32.	May 1946		$42,200,000
Cotton products	do	July 1939	10,640,000	
Pecans	do	1935-36	515,000	
Prunes (substandard)	do	1935-36	8,500	
Corn	do	1939-40	758,500	
Corn products	do	1939-40	12,600	
Rice	do	1939-40	25,200	
Wheat products	do	1939-40	233,060	
Raisins	do	1939-40	1,500	
Pork products	do	1939-40	141,600	
Dry skim milk	do	1939-40	1,600	
Evaporated milk	do	1939-40	110,800	
Semolina	do	1941-42	2,729,000	
Irish potatoes	do	1945-46	1,200,000	5,000,000
Tobacco	do	1935-36	3,800	
Walnuts	do	1935-36	2,338,000	
Wheat flour	do	March 1936		
		September 1938	34,538,000	
		1944		
Wheat	do	1933		
		1938-39	31,868,000	
	Surplus Property Act of 1944, sec. 21 (c).	1944	[1] 1,211,000	
Pears	Agricultural Adjustment Act, 1933 (as amended) sec. 32.	1936-37	69,000	

[1] This expenditure was made through the Commodity Credit Corporation, and the above figure covers the period ended Dec. 31, 1946, rather than June 30, 1946.

Sources: Offices of Agricultural Adjustment Administration, U. S. Department of Agriculture. Legislative Reference Service, Kathryn S. Mills, Mar. 20, 1947.

Direct subsidies of the Reconstruction Finance Corporation in effect March 1947[1]

	Date of inauguration	Date of termination	Total expenditures through June 30, 1946	Expenditures June 30, 1946, to Dec. 31, 1946
Antimony	March 1945	April 1947	$399,000	$118,000
Copper	February 1942	June 1947	96,372,000	8,614,000
Lead	February 1942	June 1947	55,642,000	6,085,000
Zinc	February 1942	June 1947	141,444,000	16,024,000
Petroleum (stripper wells compensatory adjustments).	August 1944	April 1947	110,244,000	19,700,000
Veterans' Emergency Housing Act, 1946.	May 1946	December 1947	0	[2] 9,254,000

[1] Does not include such indirect subsidy devices as the purchase and sale programs of the Reconstruction Finance Corporation.
[2] This represents actual disbursements to producers of materials. The Office of the Housing Expediter estimates that liabilities incurred during this period total $15,070,000.

Source: Reconstruction Finance Corporation, Office of Housing Expediter.
Legislative Reference Service, Kathryn S. Mills, Mar. 20, 1947.

EXHIBIT XIX–C

THE COTTON MARKETING PROGRAM OF THE UNITED STATES AND THE PROPOSED CHARTER FOR THE I. T. O.

(Memorandum submitted by United States Tariff Commission)

The current marketing program in the United States for cotton involves, in addition to domestic price-support measures, the use of import quotas and export subsidies. An important part of the proposed Charter for the I. T. O. is the plan for general elimination of quantitative restrictions on trade including absolute import quotas. Another important feature is the proposal for the elimination of export subsidies. Detailed examination of the cotton marketing program and the Charter provisions is necessary to determine to what extent, if any, the cotton program and the provisions of the Charter conflict.

Under the price support program for cotton, prices in the United States have been maintained at levels considerably above those in foreign countries. Under such circumstances imports of cotton into the United States would be large enough to glut our markets were it not for our import quotas. At present import quotas are in effect on all cotton coming into the United States except 1 1/16 inches or longer. On cotton 1 1/16 inches or longer (a class of which imports are small) the import quota has been suspended. Short-staple cotton is free of import duty in the United States; long-staple (1 1/8 inches or more) is dutiable at 3 1/2 cents per pound.

Price support for cotton.—The farm price support programs of the Government for cotton may be classified into: (1) The short term warborn program, and (2) the long term program. During the war Congress provided encouragement to producers to meet war requirements of important farm commodities with a guarantee of price support for two years subsequent to declaration of termination of hostilities. Thus, under present provisions of law for the period ended December 31, 1948, mandatory loans are made available for cotton to support prices at levels at least as high as 92 1/2 percent of parity.[1] The long-term program is that laid down in the Agricultural Adjustment Act of 1938 which requires that loans be made to support prices at levels from 52 to 75 percent of parity. Provision is made for acreage allotments and marketing quotas for control of production. Under both the short term and long term programs, it is likely that United States cotton prices will be maintained at levels above those in other countries. Some form of import control will be needed if domestic prices are to

[1] "Parity price" for cotton is the price which will give it a purchasing power for articles farmers buy equal to its purchasing power in the period August 1909 to July 1914 and which will reflect also current interest rates per acre on farm indebtedness secured by real estate, tax payments per acre on farm real estate, and freight rates contrasted with such interest payments, tax payments, and freight rates during the base period. (As of mid-February 1947, cotton prices were 112 percent of parity.)

be maintained above world levels; some form of export subsidy will be needed if the higher-priced American cotton is to maintain its competitive position in foreign markets.

Pertinent provisions of the I. T. O. Charter.—With respect to the price support programs for cotton, certain exceptions to the I. T. O. provisions against import quotas and export subsidies are important. Import quotas and export subsidies are intended to be permitted when imposed in connection with intergovernmental commodity agreements negotiated under Chapter VII of the Charter (although the Charter is not clear respecting subsidies in this particular).

Quotas are permitted under Article 25 on agricultural products when imposed in conjunction with governmental measures (1) which restrict domestic production or marketing of like products or (2) which dispose of a temporary surplus by disposing of it to groups of consumers free of charge or below market prices. If a quota is imposed under this latter exception, public notice must be given of the quantity or value which may be imported during a specified period. Moreover, such quota may not be employed to reduce imports relative to domestic production below the ratio which might reasonably be expected to rule in the absence of restrictions. In determining this due regard must be paid to the ratio prevailing in a previous representative period and to any special factors affecting trade in the product concerned.

In the absence of a commodity agreement, the United States could continue its import quotas on cotton in effect under the Charter only if domestic production or marketing restrictions are imposed or a special surplus removal program is in effect. At present, there are no domestic production or marketing restrictions in effect; such restrictions are authorized under the Agricultural Adjustment Act of 1938, but so far as is known no decision has yet been made whether they are to be reimposed. The United States does now have a surplus removal program for cotton, but its current operation concerns only a very small part of the cotton crop; the cotton being sold under the program is surplus in the sense that it is mostly off-grade and not readily salable in the commercial market. The Charter does not state that the surplus-removal program must be relatively important in order to supply the basis for imposing import quotas, but it may be expected that considerable friction might result if an unimportant program were used by the United States as the basis for quotas on imports.

Paragraph 2 of Article 30 obligates Members to abolish export subsidies as well as any other form of subsidization which results in lower prices for exports than for domestic sales. It provides that 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 the Charter enters into force. Here there is no apparent conflict with the short-term support program for cotton and export subsidies can be continued at least on a temporary basis.

It is provided further that if any Member is not able within the three years specified to remove the subsidy granted with respect to any commodity such Member must give three months advance notice in writing accompanied by an analysis of the practices in question, the facts justifying them, and the period for which the extension is desired. It shall then be determined whether the extension desired should be made. Paragraph 4 of Article 30 provides that if any Member considers it is being injured by any production or export subsidy granted on a primary product by another Member, or if the Member granting the subsidy finds itself unable to abolish it within the time limit prescribed in paragraph 2, the difficulty may be considered a special case to be handled, if possible, by a commodity agreement under the procedures described in Chaper VII. However, if it is determined that commodity agreement procedures do not promise within a reasonable time to succeed in removing, or preventing the developing of a burdensome world surplus of the primary product concerned, the requirements of Article 30 prohibiting export subsidies cease to apply with respect to that Article.

Paragraph 4 (c) provides that even at such times as export subsidies are permitted under other provisions of Article 30, they must not be such as to have the effect of acquiring for the subsidizing Member country a share of world trade in the given product in excess of the share which it had during a previous representative period, account being taken of special factors affecting the trade. The selection of a representative period and the appraisal of special factors shall be made initially by the Member granting the subsidy, but the Member on request must consult with other interested Members or with the I. T. O. with respect to these matters.

The justification for the use of subsidies on Unted States cotton exports has been that they are necessary, because of domestic conditions, to retain a fair

share of world markets. Such subsidies have not been, and are not likely to be, used to obtain for the United States an increased share of world trade.

Conclusion on import quotas and export subsidies.—If cotton should be in burdensome world surplus, export subsidies could be used by the United States to retain a fair share of world trade, whether or not a commodity agreement is put into operation under Chapter VII of the Charter (except in the unlikely event that the Commodity Agreement should prohibit export subsidies).

The Charter permits import quotas in certain contingencies and the United State could, if it wished, comply with such contingencies. However, unless such contingencies are met, import quotas would be prohibited. The freedom of action of the United States to impose import quotas would be materially curtailed by the Charter.

Foreign Monopoly Purchases.—The Government of the United Kingdom has established a monopoly agency with exclusive privileges of importing cotton into that country. The Charter would not interfere with the continuation of that agency. Article 31 would require that the Government agency accord to United States cotton treatment at least as favorable as that granted to cotton from any other country (including British Empire countries). The Charter provides that in purchasing cotton the agency must be influenced solely by commercial considerations such as price, quality, marketability, transportation, and other terms, and the agency must also make available to other Members information as to its operations. However, it is evident that the Charter affords wide latitude to the purchasing monopoly in the determinations as to where and from whom it shall purchase cotton.

EXHIBIT XIX–D

THE LIBRARY OF CONGRESS

LEGISLATIVE REFERANCE SERVICE

Washington 25, D. C.

"BUY AMERICAN" ACT

TITLE III OF ACT OF MARCH 3, 1933 (47 STAT. 1489, 1520), MAKING APPROPRIATIONS FOR THE TREASURY AND POST OFFICE DEPARTMENTS FOR THE FISCAL YEAR ENDING JUNE 30, 1934

Section 1

Defines:

(1) The term "United States" when used in a geographical sense to include the United States and any place subject to the jurisdiction thereof.

(2) The terms "public use", "public building", and "public work" to mean use by, public building of, and public work of, the United States, the District of Columbia, Hawaii, Alaska, Puerto Rico, the Philippine Islands, American Samoa, the Canal Zone and the Virgin Islands.

Section 2

Specifies that unless the head of the department or independent establishment concerned shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, only (1) such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, (2) such manufactured articles, materials, and supplies as have been manufactured in the United States substantially from articles, materials, and supplies mined, produced, or manufactured in the United States, shall be acquired for public use. Not applicable to articles, materials, or supplies acquired for use outside the United States, nor to those not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Section 3

(a) Requires that every contract for the construction, alternation, or repair of any public building or public work in the United States growing out of an appropriation contain a provision that the contractor, subcontractors, material men, or suppliers, shall use only such articles, materials, and supplies as are

specified in section 2 except that if the head of the department making the contract finds that in respect to some particular articles, materials, or supplies it is impracticable to make such requirement or that it would unreasonably increase the cost, an exception shall be noted in the specifications as to that particular article and a public record made of the findings which justified the exception.

(b) Failure of contractors, etc. to comply with the foregoing provision shall bar them from receiving public work or public building contracts for a period of three years.

Section 4

Effective upon enactment (March 3, 1933).

Section 5

Separability clause.

AMENDATORY ACT

Section 6

(b) of the Farm Credit of 1937 (50 Stat. 703, 707) provides that the "Buy American" Act (U. S. C. 41:10a–c) shall not be deemed to apply to any lease, purchase, sale, deed, conveyance, or contract authorized or made by a district farm credit board, Federal land bank, Federal intermediate credit bank, production credit corporation, or bank for cooperatives under the Farm Credit Act.

OTHER SUPPLEMENTARY ACTS

EMERGENCY RELIEF APPROPRIATION ACT OF 1935 (49 STAT. 115, 119)

Section 13

(a) The acquisition of articles, materials, and supplies for the public use, with funds appropriated by this joint resolution, shall be subject to the provisions of section 2 of title III of the Treasury and Post Office Appropriation Act, fiscal year 1934; and all contracts let pursuant to the provisions of this joint resolution shall be subject to the provisions of section 2 of title III of such Act.

(b) Any allocation, grant, or other distribution of funds for any project, Federal or non-Federal, from the appropriation made by this joint resolution, shall contain stipulations which will provide for the application of title III of such Act to the acquisition of articles, materials and supplies for use in carrying out such project.

UNITED STATES HOUSING ACT OF 1937 (50 STAT. 888, 891)

Section 6

(c) The use of funds made available for the purposes of this Act shall be subject to the provisions of section 2 of title 3 of the Treasury and Post Office Appropriation Act for the fiscal year 1934 (47 Stat. 1489), and to make such provisions effective every contract or agreement of any kind pursuant to this Act shall contain a provision identical to the one prescribed in section 3 of title 3 of such Act. . . .

ACT OF JUNE 7, 1939 FOR THE ACQUISITION OF CERTAIN STRATEGIC AND CRITICAL MATERIALS (53 STAT. 811, 812)

Section 5

Purchases under this Act shall be made in accordance with title III of the Act of March 3, 1933 (47 Stat. 1520), but a reasonable time (not to exceed one year) shall be allowed for production and delivery from domestic sources and in the case of any such material available in the United States but which has not been developed commercially, the Secretary of War and the Secretary of the Navy may, if they find that the production of such material is economically feasible, direct the purchase of such material without requiring the vendor to give bond.

AN ACT TO PROMOTE THE DEFENSE OF THE UNITED STATES (55 STAT. 31)

Renders the "Buy American" Act inapplicable to the manufacture or acquisition of certain defense articles.

STRATEGIC AND CRITICAL MATERIALS STOCKPILING ACT (60 STAT. 596, 597)

Section 3

The Secretary of War and the Secretary of the Navy shall direct the Secretary of the Treasury, through the medium of the Procurement Division of his Department, to—

(a) make purchases of strategic and critical materials with due regard to the objectives set forth in section 1 of this Act and pursuant to the determinations as provided in section 2 hereof, which purchases (1) shall be made, so far as is practicable, from supplies of materials in excess of the current industrial demand and (2) shall be made in accordance with title III of the Act of March 3, 1933 (47 Stat. 1520), but may be made without regard to section 3709 of the Revised Statutes. A reasonable time (not to exceed one year) shall be allowed for production and delivery from domestic sources and in the case of any such material available in the United States but which has not been developed commercially, the Secretary of War and the Secretary of the Navy may, if they find that the production of such material is economically feasible, direct the purchase of such material without requiring the vendor to give bond; . . .

(Edwin Kennerly, Federal Law Section, March 19, 1947.)

EXHIBIT XX

GENERAL AGREEMENT ON TARIFFS AND TRADE (TRADE AGREEMENT)

During the hearings before the Senate Committee on Finance on the charter for an International Trade Organization, it was asked (1) why is it proposed to conclude at Geneva a multilateral trade agreement rather than a series of bilateral trade agreements; and (2) what provisions does the United States consider should be included in the trade agreement.

A. MULTILATERAL CHARACTER OF PROPOSED AGREEMENT

There are a number of reasons for the multilateral character of the projected agreement:

1. Broader trade benefits for United States exports

A series of bilateral trade agreements between the United States and each of the 17 other countries meeting at Geneva would involve (*a*) tariff concessions by the United States on products of which each of the other countries is a principal supplier of imports into the United States and (*b*) tariff concessions by the United States on products of which each of the other countries is a principal supplier of imports into that country.

A main objective of the multilateral agreement is to assure that tariff concessions will also be made by the other countries on products of which they are principal suppliers to each other. In the case of a large number of these products, the United States is a secondary supplier and will benefit from the concessions made on them.

It will be observed from the foregoing that the multilateral character of the proposed agreement does not call for concessions by the United States over a broader range of products than would be the case if the United States entered into bilateral agreements with each of the other 17 countries. At the same time, it would bring about concessions on a far greater range of products of interest to United States exporters than would be obtained if the project were confined to bilateral agreements between the United States and each of the others.

2. Facilitation of quota elimination

The establishment of a system of world trading in which private enterprise can operate calls for the condemnation of import quotas. The multilateral character of the proposed agreement, by assuring broad and simultaneous action directed to the reduction of tariffs, the elimination of preferences, and the relaxation of other trade barriers, will facilitate agreement on provisions to condemn the use of quotas, subject to closely defined and safeguarded exceptions.

3. Establishment of legal basis for adherence by other countries

The aim at Geneva, in connection with the charter and to an appropriate extent in the trade agreement, is to develop a code of commercial conduct by which all countries can be guided, thus assuring the pursuit of sound commercial policies throughout the world and not merely by the countries at the Geneva meeting. A series of bilateral trade agreements would be unlikely to provide a suitable and equitable standard for others and would not create a legal basis for international adherence.

4. Withholding of trade benefits from countries which do not cooperate

The view has been advanced by the United States (see article 36 of the draft charter for International Trade Organization originally put forward by the United States) that after the charter also has entered into force the countries negotiating at Geneva should no extend the benefits of their trade concessions to other countries which are unwilling to make a fair contribution in return. This rule is equitable only if the "contribution" demanded is approximately the same for all countries. The best way to assure equality of contributions is through a multilateral agreement embodying general provisions applicable to all parties.

5. Reversal of present trend toward trade regimentation

Over and above these considerations, each important in itself, is that concerted action by a number of important countries, covering a broad area of trade, is required in order to reverse the present trend throughout the world toward trade restrictionism, discrimination, and regimentation.

If the United States should attack this problem alone and by a series of bilateral agreements, the rest of the world may be hardened into a bilateral mold and our hope for a multilateral trading system would be lost. The program put forward by the United States is an attempt to stay the trend apparent in the rest of the world and reverse it. War has disrupted economies and greatly strengthened movements toward collectivism and regimentation. Only decisive action—on a broad front—can promise to make headway in the other direction.

6. Preservation of substantive commercial policy provisions of ITO charter

It should be pointed out that many of the more important provisions of chapter V (commercial policy) of the draft charter for an International Trade Organization would probably need to be deleted in the event that the arrangements reached at Geneva were not of a multilateral character. If common provisions on substantive commercial policy matters cannot be reached in conjunction with tariff negotiations, it would probably be impossible to obtain agreement on the inclusion of such provisions in the charter itself, and that part of the charter which is of most importance to the United States would accordingly fall.

The actual tariff bargaining at Geneva will be essentially through bilateral negotiations, on a selective, product-by-product basis, and decisions on particular concessions will be reached in discussions between pairs of countries, to which one or two other countries might be admitted where they have a direct and important interest. The results could be written down in a series of bilateral documents (136). The United States would be a party to 17 of these. The agreement of the United States would be necessary for what was in the 17 agreements to which it was a party but not what was in the 119 agreements to which it was not a party. The advantage to us of the multilateral document is that we would be influencing the character of the trade arrangements between other countries. The multilateral document thus enables us to attack the very things that are most prejudicial to our trade which we could not otherwise control as effectively.

If the meeting at Geneva were not multilateral, the other nations would not in fact meet and arrange this sort of program at all. Their present agreements are evidence of what they would do—what they would be forced to do. It is only by getting them all together at once that we can get agreement on a pattern of trading in which the United States system of trading can thrive.

B. PROVISIONS PROPOSED FOR INCLUSION IN GENERAL AGREEMENT ON TARIFFS AND TRADE (TRADE AGREEMENT)

1. Limitations of provisions

It may be stated at the outset that there is no intent to obligate the United States in the trade agreement beyond the authority of the Executive power.

2. General nature of provisions

The substantive provisions which the United States will propose for inclusion in the trade agreement are based upon similar provisions in existing trade agreements under the Trade Agreements Act, with appropriate adaptations, and other analogous provisions which it will be suitable to include in a trade agreement.

3. Specific provisions proposed for inclusion

The following are the specific provisions which the United States will propose for inclusion in the proposed trade agreement, subject to such changes which further study or the course of negotiations may indicate would be desirable (all references are to the draft general agreement on tariffs and trade, printed as part III of the New York Report of the drafting committee of the preparatory committee of the International Conference on Trade and Employment):

Article I.—Tariff treatment: This article provides for most-favored-nation treatment as to tariff duties, customs administration and the treatment of imported articles. Similar provisions have been included in United States trade agreements in the past.

Article II.—National treatment on internal taxation and regulation. This article provides for nondiscrimination between imported and domestic products in the application of internal taxes and regulations. Similar provisions covering taxation have been included in United States trade agreements in the past.

Article III.—Freedom of transit. This article provides for freedom of transit for goods and means of transport through the territories of the contracting counties. Similar provisions have in the past been included in United States treaties and also to some extent in commercial agreements.

Article IV.—Antidumping and countervailing duties. This Article regulates the use of antidumping and countervailing duties and is in general based on United States law. The Article is desirable because it affords protection against the misuse of these types of duties for the purpose of offsetting the tariff concessions provided for in the schedules to be annexed to the trade agreement. Some provisions on these matters have been included in United States trade agreements in the past.

Article VI.—Customs formalities: Under this article the parties to the agreement undertake to review their customs laws and regulations with a view to simplifying customs formalities at the earliest practicable date. In view of the hampering effects of excessive customs formalities on trade, the article is appropriate for inclusion in a trade agreement.

Article VII.—Publication and administration of customs regulations; advance notice of restrictive regulations: This article requires publication of trade regulations and the giving of advance notice in the case of administrative rulings which increase duties or raise other customs barriers. Similar provisions have been included in trade agreements in the past.

Article VIII.—Schedules of concessions on particular products: This article is a technical one necessary to make the schedules of tariff concessions an integral part of the agreement. Similar provisions have been included in United States trade agreements in the past.

Articles IX, X, XI, XII and XIII.—These articles deal with quantitative restrictions and exchange controls. They are highy important in protecting the tariff concessions of the agreement against impairment. They are an elaboration of provisions included in United States trade agreements in the past adapted to the multilateral character of the proposed agreement and broadened to assure more effective benefits for United States exports.

Article XIV.—General undertaking regarding subsidies: This article recognizes that subsidies may have injurious effects on trade. In such cases the article provides for consultation between the interested parties with a view to discussing the possibility of limiting the subsdy. The article is an appropriate one for inclusion in a trade agreement because of the possible effects of subsidies on international trade. The article does not require any change in United States laws.

Article XV.—Nondiscriminatory administration of state-trading enterprises: This article extends the principle of equality of treatment to the operations of state-trading enterprises in their foreign trade. Similar provisions have been included in United States trade agreements in the past.

Article XVII.—Government assistance to economic development: This article provides in effect that a country party to the agreement may withdraw a conces-

sion granted under the agreement for the purpose of aiding an infant industry, if (a) a majority of the other countries party to the agreement consent and (b) if the other countries party to the agreement whose trade would be substantially affected also consent. This article is appropriate for inclusion in a trade agreement, just as the so-called escape clause in article XVIII, is appropriate.

Article XVIII.—Emergency action on imports of particular products: This article would permit a country party to the agreement to withdraw a concession granted under the agreement if necessary to prevent serious injury to domestic producers. If the other countries party to the agreement disagree with this action they could then suspend the concessions that they had granted in exchange for the concession withdrawn by the first country. If the privileges of the article are abused—for example: if concessions are withdrawn to set up a new industry or to promote the expansion of an industry and not to protect domestic producers against harm—then the other parties may suspend concessions over and above those which might be equivalent to the concessions withdrawn by the first country.

Provisions similar to those in article XVIII, including necessarily the right of counterwithdrawal of concessions, have been included in United States trade agreements in the past. Under Executive Order No. 9832 inclusion in future trade agreements entered into by the United States, of such provisions permitting the withdrawal of concessions is made mandatory.

Article XIX.—Consultation, nullification, or impairment: This article provides for consultation among the countries party to the agreement on matters affecting its operation. It also covers the eventuality that some situation may arise, or that some party to the agreement may violate the agreement, directly or indirectly, which would have the effect of nullifying or impairing the agreement. In serious cases of this kind the other parties could agree that they, or any of them, would be free to suspend the concessions they have made under the agreement. Any party affected by such suspension could then withdraw from the agreement on short notice—60 days.

Provisions similar to those in article XIX, including the right of withdrawal of concessions, have been included in United States trade agreements in the past.

Article XX.—General exceptions: This article excepts from the agreement such measures as sanitary regulations, traffic in arms, certain security matters, and the like. These exceptions are based on those usually included in United States trade agreements in the past.

Article XXI.—Territorial application, frontier traffic, customs unions: This article makes the agreement applicable to the customs territories of the parties and provides for exceptions (largely from the nondiscrimination provisions) for advantages granted to facilitate frontier traffic between adjacent countries or to give effect to a customs union. Similar provisions have been included in United States trade agreements in the past.

Article XXII.—Interim Trade Committee: The purpose of this article is to provide a way in which the parties to the agreement can meet and discuss its operation. Certain of the provisions of the agreement—notably those designed to safeguard the exception for balance-of-payments restrictions against abuse—make it desirable for all parties to meet and determine how the provisions are to apply in a particular case. The "Interim Trade Committee" is simply a formal way of describing the parties to the agreement when they meet together. The committee would not be an "organization" in the usual sense of that term. It would have no elaborate functions, staff, or general international responsibilities. Conceivably the same results could be obtained by eliminating article XXII in its present form and simply providing that representatives of the contracting parties shall meet from time to time or when necessary to determine the application of the agreement in particular cases. The description of the contracting parties as a "committee" is merely a matter of convenience.

Article XXIII.—Amendment and termination: Some provision for amendment of the agreement is necessary and appropriate, particularly in view of the fact that several of the provisions of the agreement are also proposed for inclusion in the charter for an International Trade Organization on which action is to be taken at a later date. The Department of State believes that the provisions of article XXIII of the New York draft are not entirely satisfactory and will probably wish to suggest a new formulation.

Article XXIV.—Interpretation and settlement of disputes: This article provides for the interpretation and settlement of disputes by consultation among the contracting parties (i. e. the committee). It has been the practice in United States trade agreements in the past to settle disputes and questions of interpretation my consultation between the parties.

Article XXV.—Entry into force and withdrawal: This article provides for the entry into force of the agreement and for withdrawal by any party. The provision permitting withdrawal at the end of 3 years upon 6 months' notice conforms to the requirements of the Trade Agreements Act. Similar provisions have been included in United States trade agreements in the past.

Article XXVI.—Adherence: This article provides a means whereby nonsignatory countries may become a party to the agreement on terms to be agreed with the contracting parties (i. e. the committee). It has not been found necessary to include provisions of this kind in past United States trade agreements because their character did not offer a basis for adherence by others.

Article XXVII.—In this article the signatory governments, pending acceptance in accordance with their constitutional procedures of the draft Charter for the International Trade Organization (which they will have recommended to the World Trade Conference), subscribe to the principles and provisions of the draft Charter, but only insofar as it is within their authority to do so. This article is interpreted as in no way committing the United States to take any action inconsistent with existing legislation including the Trade Agreements Act.

NOTE.—Certain of the provisions described above would, in their present form, appear to be inconsistent with existing laws of the United States. For example, the Act of June 5, 1940 (title 7, section 516, U. S. C.) prohibits the export of tobacco seed (except under license for experimental purposes). This restriction on exports of tobacco seed is in conflict with the general ban against prohibitions or restrictions on imports and exports contained in paragraph 1 of article IX of the New York draft and there apparently is no exception elsewhere in the draft agreement which would permit its continuation. Another example of this character relates to coconut oil. Under section 2470 of the Internal Revenue Code, coconut oil which is produced from copra which is the product of any United States possession or of the Philippine Islands is subject to a processing tax of 3¢ per pound, whereas such oil produced from copra which is the product of any other foreign country is subject to an additional tax of 2¢ per pound (i. e. a total of 5¢ per pound). This discriminatory tax is in conflict with that part of article I of the New York Draft Agreement which provides for most-favored-nation treatment with respect to internal taxes and possibly also with the provisions of article II for national treatment with respect to internal taxes.

APRIL 8, 1947.

Another inconsistency with existing law may arise in the case of paragraph 5 of article V of the New York Draft Agreement. Genarally speaking, the provisions of article V, relating to antidumping and countervailing duties, follow closely the existing law and practice in the United States. However, paragraph 5 of this article provides that noncountervailing duty may be imposed unless the effect of the subsidization of the foreign product is "such as materially to injure or threaten to injure an established domestic industry." Although under our Antidumping Act a finding of injury to a domestic industry must be made before dumping duties may be assessed, section 303 of the Tariff Act of 1930, governing the levying of countervailing duties, contains no such limitation, but requires the assessment of a countervailing duty upon a finding that a subsidy has in fact been paid by a foreign country on an imported dutiable product.

The export of tin-plate scrap is prohibited (except under license issued by the President) by the Act of February 15, 1936. Under paragraph 2 (b) of article IX of the New York Draft Agreement, this export restriction could be continued for the duration of the shortage of tin in this country. If the restriction were continued at the end of the shortage, it is believed that this would be contrary to the provisions of the draft agreement.

There may be other conflicts or possible inconsistencies between the provisions of the agreement as it is presently drafted and existing laws of the United States. Among the procedures which might be followed to resolve these inconsistencies would be the modification of the text to eliminate the particular language which is inconsistent with our legislation, or the insertion by the United States of an express exception or reservation relative to the particular items involved. Whatever method of dealing with these matters may be used, there is no intention of obligating the United States beyond the power of the Executive authority.

EXHIBIT XXI

DRAFT OF 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[1]

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.[2] . . . .

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 to all laws, regulations or requirements affecting their internal sale, offering for sale, transportation, distribution or use of any kind whatsoever. The provisions of

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

[2] 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.

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 XXII, (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 of 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 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[8]

(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.

[8] Alternative A represents the text in the United States Draft Charter. Different interpretations of the words "actual value" were given by different delegates who supplied alternatives B and C.

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, 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 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-dumpting or countervailing duties.

ARTICLE VIII

Schedules of concessions on particular products [1]

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.

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[1] It is contemplated that there would appear at an appropriate place in each of the Schedules a provision along the following lines: "The products of the territories of the contracting parties, enumerated and described in this Schedule, shall, on their importation into (name of country) be exempt from ordinary customs duties in excess of those set forth and provided for in this Schedule, subject to the conditions therein set out. Such products shall also be exempt from all other duties or charges imposed on or in connection with importation, in excess of those imposed on the day of the signature of this Agreement or required to be imposed thereafter under laws of (name of country) in force on that day provided that this sentence shall not prevent the Government of (name of country) from imposing at any time on the importation of any product a charge equivalent to an internal tax imposed in respect of the like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part.

It is also contemplated that there would be included at an appropriate place in the Agreement undertakings designed to prevent the nullification or impairment of the benefits of the tariff concessions of the Agreement which would result from any reclassification of products at higher rates of duty than those provided for in the Schedules. Such undertakings might take the form either of provisions designed to prevent such reclassification entirely, during the life of the Agreement, or to prevent the imposition of higher duties resulting from such reclassification, or, in cases where neither of these two courses might be practicable, of provisions for negotiations to restore the previous balance between concessions and counter-concessions.

3. If any contracting party, after the day of signature of this Agreement, establishes 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 intergovernmental 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 applying restrictions on the importation of any product under 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 (1) 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 imposed 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 subparagraph (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 subparagraph (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 contracting 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 favorable or by any appropriate intergovernmental 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 of 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 (c) of this Article or under sub-paragraph 2 (c) 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, *Providing* 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 competency 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 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 indirectly to increase exports of any present 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 others 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 Protocol 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 effecting a satisfactory adjustment of the matter. If no such adjustment can be effected, 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 archaelogical 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.

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 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 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 justification 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.[6]

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 Organizations 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 re-admitted 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.
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.

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[6] It may be necessary to include in this Article a provision regarding contributions to the expenses of the Committee.

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 OF 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 of 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, effective demand and economic activity
IV. Economic development
V. General commercial policy
VI. Restrictive business practice
VII. Inter-governmental commodity arrangements

EXHIBIT XXII-A

DEPARTMENT OF STATE,
November 9, 1946.

ANNOUNCEMENT OF TRADE-AGREEMENT NEGOTIATIONS WITH AUSTRALIA, BELGIUM, BRAZIL, CANADA, CHILE, CHINA, CUBA, CZECHOSLOVAKIA, FRANCE, INDIA, LEBANON (SYRO-LEBANESE CUSTOMS UNION), LUXEMBOURG, NETHERLANDS, NEW ZEALAND, NORWAY, UNION OF SOUTH AFRICA, UNION OF SOVIET SOCIALIST REPUBLICS, UNITED KINGDOM

The Acting Secretary of State today issued formal notice of intention to conduct trade-agreement negotiations with Australia, Belgium, Brazil, Canada, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon (Syro-Lebanese Customs Union), Luxembourg, Netherlands, New Zealand, Norway, Union of South Africa, Union of Soviet Socialist Republics, the United Kingdom, and the areas for which these countries have authority to negotiate. Invitations to most of these nations were announced in December 1945. The negotiations will probably begin in April 1947.

The Acting Secretary also made public a list of products which will be considered for the possible granting of tariff concessions by the United States in these negotiations.

The Committee for Reciprocity Information simultaneously issued a notice fixing the dates for submission to it of written information and views about the projected negotiations and of applications to appear at public hearings before the Committee. The notice sets forth the time and place for the opening of these hearings.

Today's announcement marks a further important step in the program of international economic collaboration begun with the Atlantic Charter. This program was expanded in Article VII of our mutual-aid agreements, was carried forward by our participation in the International Bank for Reconstruction and Development, the International Monetary Fund, the Food and Agriculture Organization, and the Economic and Social Council of the United Nations. It has been further developed in the United States *Proposals for Expansion of World Trade and Employment* presented last December for the consideration of the governments and peoples of the world. The *Proposals* have since been elaborated in detail in the *Suggested Charter for an International Trade Organization* published by the United States in September of this year.

The British and French Governments have announced their full agreement with all important points of the *Proposals*. The Economic and Social Council of the United Nations has voted to call an international conference on trade and employment, and has appointed a Preparatory Committee to prepare the agenda for that conference.

This Preparatory Committee is now holding its first meeting in London. It has accepted the United States *Suggested Charter* as a basis for study.

To be fully effective, general rules for international commercial and trade relations such as those laid down in the *Suggested Charter* must be supplemented by specific action to reduce, modify, or eliminate barriers to trade such as tariffs, quantitative restrictions, and discriminations. The trade-agreement negotiations which the Department has today announced are one of the

principal means by which the nations now meeting in London (which are the same nations included in the proposed negotiations) will endeavor next spring to achieve this end.

This is the largest reciprocal trade-agreement negotiation yet undertaken. Nations are emerging from the dislocations of the war. They are now making crucial decisions as to the nature and direction of their economic activities. There exists a major opportunity to reduce world trade barriers and establish desirable patterns of future world trade. To seize this opportunity, the trade-agreements program, limited during the war, is now being resumed on a broad scale.

In the past years the United States and the other countries participating in these negotiations have accounted for about two-thirds of the world's trade. The other negotiating countries have accounted for about the same proportion of United States exports and imports. The list of products on which public hearings are to be held is therefore extensive and includes a large proportion of the important products in United States import trade, including among them some products of which Germany and Japan were formerly principal sources of United States imports, but of which the negotiating countries are likely to be the principal source under post-war conditions.

It is intended to include in the proposed trade agreement an adequate escape clause, along the lines of that appearing in our trade agreement with Mexico, under which a concession which, as a result of unforeseen circumstances, causes serious injury to domestic producers, can be modified or withdrawn.

The negotiations will be a two-way process. The United States will make requests for tariff and other concessions by the other countries in favor of a wide range of products covering a large proportion of our total export trade. Although no list of the export items on which concessions will be requested is to be published, the interdepartment trade-agreements organization is preparing a very extensive list of such requests, and export interests are urged to let the trade-agreements organization know at the public hearings what concessions they feel should be requested of the other countries involved in the negotiations.

Information is also solicited about other trade barriers, such as quantitative restrictions or administrative regulations which have stood in the way of United States export trade with these countries, and as to any discriminations by these countries which have proved detrimental to United States exports.

The procedures hitherto followed under the Trade Agreements Act will continue to apply in the preparation for these negotiations. No tariff concession will be granted by the United States on any product not covered by the present or a supplementary public list. In conclusion of any product in the public list does not necessarily mean that a reduction or binding of duty will be granted. No decision to offer a tariff concession will be made until after the public hearings, and the final decision as to what concessions will be granted will, of course, depend on the outcome of the negotiations. Concessions may take the form of reductions in duty (customs duties and import excise taxes) or may simply bind existing duties or duty-free treatment or processing taxes.

For the convenience of the public, the present list has been prepared in two forms. The first form, entitled *Statistical List*, is based upon the classifications set forth in *Schedule A—Statistical Classification of Imports Into the United States*, September 1, 1946, published by the Department of Commerce. Its language is commercial rather than statutory and will be more familiar to many of those interested in the proposed negotiations. The second form, entitled *Statutory List*, is based upon the language of the Tariff Act of 1930, and contains the exact legal description of the products on which concessions will be considered. It is controlling.

It has already been announced that public hearings will be held at a date to be announced later on the *Suggested Charter for an International Trade Organization*, so that all interested United States persons and groups will also have an opportunity to express their views as to the general rules under which international trade should be conducted.

EXHIBIT XXII–B

COMMITTEE FOR RECIPROCITY INFORMATION

Tariff Commission Building, Eighth and E Streets NW., Washington, D. C.

TRADE-AGREEMENT NEGOTIATIONS WITH AUSTRALIA, BELGIUM, BRAZIL, CANADA, CHILE, CHINA, CUBA, CZECHOSLOVAKIA, FRANCE, INDIA, LEBANON (SYRO-LEBANESE CUSTOMS UNION), LUXEMBOURG, NETHERLANDS, NEW ZEALAND, NORWAY, UNION OF SOUTH AFRICA, UNION OF SOVIET SOCIALIST REBUBLICS, UNITED KINGDOM

PUBLIC NOTICE

Closing date for submission of briefs, December 21, 1946.
Closing date for application to be heard, December 21, 1946.
Public hearings open, January 13, 1947.

SUBMISSION OF INFORMATION TO COMMITTEE FOR RECIPROCITY INFORMATION

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, in regard to the trade-agreement negotiations with the countries listed above (including areas for which these countries have authority to conduct trade-agreement negotiations), in respect of which notice of intention to negotiate has been issued by the Acting Secretary of Sate on this date, shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, Saturday, December 21, 1946. The Committee office will remain open to receive these briefs.

Such communications should be addressed to "The Chairman, Committee for Reciprocity Information, Tariff Commission Building, Eighth and E Streets, Northwest, Washington 25, D. C."

Public hearings will be held before the Committee for Reciprocity Information, at which supplemental oral statements will be heard. The first hearing will be at 10:00 a. m. on January 13, 1947, in the Department of Commerce Auditorium in the Department of Commerce Building at 14th and E Streets, Northwest, Washington, D. C. Witnesses who make application to be heard will be advised regarding the time and place of their individual appearances.

Ten copies of written statements, either typewritten or printed, shall be submitted, of which one copy shall be sworn to. Appearances at hearings before the Committee may be made only by or on behalf of those persons who have filed written statements and who have within the time prescribed made written application for supplemental oral presentation of views. Statements made at the public hearings shall be under oath.

Persons or groups interested in import products may present to the Committee their views concerning possible tariff concessions by the United States on any product, whether or not included in the list of *Products on Which Possible Tariff Concessions Will Be Considered in Reciprocal Trade Agreement Negotiations* made public by the Acting Secretary of State on this date. However, no tariff concession will be considered on any product which is not included in that list or in a supplementary public list.

Persons interested in export items may present their views regarding any tariff or other concessions that might be requested of the foreign governments with which negotiations are being conducted.

Views concerning general provisions of a nature customarily included in trade agreements may also be presented.

By direction of the Committee for Reciprocity Information this 9th day of November, 1946.

EDWARD YARDLEY, *Secretary.*

WASHINGTON, D. C., *November 9, 1946.*

EXHIBIT XXII–C

LIST OF PRODUCTS ON WHICH POSSIBLE TARIFF CONCESSIONS BY THE GOVERNMENT OF THE UNITED STATES WILL BE CONSIDERED IN RECIPROCAL TRADE AGREEMENT NEGOTIATIONS WITH FOREIGN COUNTRIES

(Presented in the Language of Schedule A Statistical Classification of Imports into the United States—Published by the Department of Commerce, 1946)

[Prepared by The Interdepartmental Trade Agreements Organization consisting of the Departments of State, Commerce, Agriculture, Treasury, War and Navy, and the United States Tariff Commission]

The products included in this List are those indicated by the Commodity Numbers shown in the right-hand column of this List. Refer to Schedule A—Statistical Classification of Imports Into The United States, U. S. Department of Commerce, September 1, 1946, *to identify the products covered by these Commodity Numbers.*

A dash between two Commodity Numbers indicates that all Commodity Numbers, within the range shown, are included in the List.

GROUP 00—ANIMALS AND ANIMAL PRODUCTS, EDIBLE

Product	Commodity Number, Schedule A, 1946
Animals, Edible (except for Breeding)	
Cattle (except those weighing from 200 to 700 lbs. each), goats, and hogs	0010.600 0010.800, 0010.900 0012.200, 0013.000
Poultry, live	0014.000–0015.500
Meat Products	
Meat and poultry: Fresh, chilled or frozen (except turkeys)	0018.000–0023.900 0025.400–0025.900
Meat and poultry: Prepared or preserved (except beef and certain classes of pork).	0026.000, 0030.100 0031.100, 0032.100 0032.800, 0032.900
Sausage casings	0034.000, 0035.500
Animal Oils and Fats, Edible	
Lard, lard compounds and lard substitutes	0036.000, 0036 100
Oleomargarine, and certain other edible animal oils and fats	0036.500, 0036.900
Dairy Products	
Milk and cream: Fresh, condensed, evaporated and dried	0037.000–0041.300
Butter	0044.000
Cheese: Roquefort, Cheddar, Edam, Gouda and Bryndza	0046.300, 0046.490 0046.700, 0046.990 [1]
Fish and Fish Products, except Shellfish	
Fish (except tuna): Fresh or frozen	0057.000–0057.000 0059.000–0060.500
Fish: Dried and unsalted	0062.000–0062.290
Fish, except antipasto and tuna in oil, and anchovies: In oil; or in air-tight containers not in oil.	0063.200, 0063.300 0066.400–0066.700 0067.100–0067.900
Fish: Pickled or salted	0068.000–0073.900
Fish: Smoked or kippered; and otherwise prepared or preserved (certain classes)	0075.000–0078.400
Fish paste; fish sauce; and certain classes of fish roe	0078.500, 0079.000 0079.500
Shellfish and Products	
Crab meat, canned razor clams, lobsters, and other shellfish and shellfish products (certain classes).	0080.100–0081.400 0083.000–0086.400 0087.000, 0087.300 0087.500, 0087.600 0087.800
Other Edible Animal Products	
Eggs, in shell, dried or frozen; egg yolks and egg albumen	0088.100–0095.000
Gelatin, edible	0097.000–0097.500

[1] Bryndza only.

GROUP 0—ANIMALS AND ANIMAL PRODUCTS, INEDIBLE

Product	Commodity Number, Schedule A, 1946
Hides and Skins, Raw (except Furs)	
Hides and skins (except cattle hides and dry or dry salted horse hides)	0203.000–0209.100 0212.100–0299.900
Leather	
Leather, finished or partly finished	0300.100–0345.900
Leather, Rawhide and Parchment Manufactures	
Footwear (except turn or turned boots or shoes, and rubber-soled footwear with fabric uppers).	0350.100–0350.900 0351.100–0351.900 0352.100–0352.900 0355.100–0369.900
Leather gloves, all kinds (whether or not lined, hand-seamed, or fur-trimmed, and including gloves over 12 inches in length) and including glove tranks.	0400.120–0505.890
Leather luggage, handbags, purses, and related articles	0691.300–0692.900
Harness, saddles, and parts (except metal parts)	0699.100–0699.300
Manufactures of leather, rawhide, or parchment	0699.400–0699.990
Furs and Manufactures	
Furs: Undressed (except guanaquito, jackal, leopard and wild cat)	0700.000–0707.000 0709.000–0727.000 0728.300, 0728.400 0729.000–0729.500
Furs: Dressed, whether or not dyed	0730.000–0737.900
Silver or black fox furs: Dressed or undressed	0738.200–0738.800
Fur felt hats and hat bodies	0753.000–0754.800
Furs and fur skins, whether or not dyed: Manufactures thereof	0741.000–0751.900 0759.000–0759.900
Animal and Fish Oils, Fats, and Greases, Inedible	
Whale oil, seal oil, cod and cod liver oil, and certain other marine animal oils	0803.000–0808.730
Wool grease, and other animal fats and greases (not including tallow and certain others)	0813.200–0813.500 0816.000, 0821.100 0808.990
Stearic acid and oleic acid	0820.100, 0820.500 0821.600
Other Inedible Animals and Animal Products	
Horses, for breeding and other	0840.000–0850.100
Cattle, for breeding	0860.000–0860.100
Birds, live	0862.100–0862.600
Silver or black foxes, live	0863.100, 0863.500
Animals and birds (certain other classes)	0880.000 0890.200–0890.500 0895.100–0895.500 0905.000 0906.100–0906.900
Feathers, and manufactures thereof	0922.100–0929.400 0929.900
Hoofs, horns, bones, sorted or prepared bristles, animal and fish glue, gelatin, isinglass, shells, sponges, catgut and certain other inedible animal products and their manufactures	0911.130, 0911.150 0915.000, 0917.000 0930.300–0940.300 0941.700, 0941.900 0951.600–0972.000 0974.000, 0976.000 0979.300, 0980.080 0980.120, 0980.130 0980.190–0980.230 0980.300, 0990.100 0990.180–0990.240 0990.280, 0990.290

GROUP 1—VEGETABLE FOOD PRODUCTS AND BEVERAGES

Grains and Preparations	
Barley, buckwheat, oats and rye	1020.000, 1025.000 1041.600, 1044.000
Patna rice, rice meal and broken rice	1054.000–1059.200
Wheat and wheat flour	1060.000 1066.500–1072.000
Barley malt, ground oats, and other grain products (except alimentary pastes, bread and certain others)	1075.100, 1075.500 1080.000–1090.170 1090.200–1090.260
Fodders and Feeds, n. e. s.	
Hay and straw	1101.000, 1190.500
Oil cake and oil-cake meal: Soybean, linseed and peanut	1112.000 1115.000, 1119.600
Bran, shorts, screenings, beet pulp, mixed feeds, and certain other feeds	1181.000–1190.400 1110.700

GROUP 1—VEGETABLE FOOD PRODUCTS AND BEVERAGES—Continued

Product	Commodity Number, Schedule A, 1946
Vegetables and Preparations	
Dry ripe beans; green lima beans; peas and lentils	1191.100, 1191.500 1192.000 1196.000-1199.000
Potatoes, seed and other	1201.000, 1204.100
Turnips and rutabagas, fresh tomatoes, onions, eggplant, and other vegetables (except onion sets and sugar beets)	1203.100 1205.000-1208.100 1210.000, 1210.010 1210.030, 1210.040 1210.060-1210.190
Farinaceous substances: Sago, tapioca, cassava and arrowroot	1227.000-1229.000
Vegetables, canned or otherwise prepared or preserved (except tomatoes, tomato paste, beans and black-eyed cowpeas)	1236.100-1237.000 1239.000, 1239.400 1244.000-1249.900
Other products of vegetables: Soy sauces, coffee substitutes, malt vinegar, ajinomoto, and certain others	1234.300, 1234.900 1235.200, 1235.500 1250.000, 1250.210 1250.320, 1250.350 1250.400, 1250.540 1250.780-1250.990
Fruits and Preparations	
Tamarinds, grapefruit, limes	1290.000, 1302.000 1304.000
Pineapples (except in bulk)	1308.000, 1309.000 1309.100
Apples	1311.000, 1330.010 1330.020
Berries and cherries (except certain classes)	1312.000-1313.300 1317.000, 1330.180 1330.190, 1330.220 1330.230
Hothouse grapes; raisins	1318.300 1319.100-1319.500
Apricots, prunes, peaches and pears (except certain classes)	1330.120 1330.540-1330.650 1330.670, 1330.690
Crude citron peel, candied and preserved, ginger root, jellies and marmalades, and other fruits and preparations (except dates, figs, and certain others)	1322.900, 1326.200 1328.500-1329.500 1330.170 1330.400-1330.450 1330.750-1330.990
Nuts and Preparations	
Coconuts, Brazil nuts, walnuts, peanuts, pistache nuts, and cashew nuts	1351.000 1356.000, 1357.000 1364.000-1368.000 1376.000-1377.000
Nuts and nut products (certain classes not including almonds or filberts)	1378.000-1379.000 1380.060 1380.110 1380.140
Vegetable Oils and Fats, Edible	
Cottonseed oil and other vegetable oils and fats (except olive oil and sunflower oil)	1420.000 1422.000-1423.200 1426.000-1428.900
Cocoa, Coffee and Tea	
Cacao beans, cocoa and chocolate	1501.300-1503.500
Coffee and tea	1511.000-1521.000
Spices	
Spices, ground and unground (except certain classes)	1525.000-1530.000 1533.000-1545.000 1547.100 1547.300-1547.700 1549.500-1550.590
Sugar and Related Products	
Sugar, cane and beet	1580.750-1610.990 1610.000
Molasses and sugar sirups (including all percentages of total sugars)	1630.480-1630.560 1640.000
Confectionery, maple sugar, maple sirup, and honey	1650.300-1651.100 1654.800
Beverages	
Whisky, brandy, gin, rum, and other distilled spirits	1711.300-1718.500
Champagne, vermuth and other wines (with certain exceptions)	1731.000-1732.120 1732.610, 1732.620 1732.910, 1732.920
Beer, ale and other malt products	1770.710-1770.890
Fruit juices, mineral waters and certain other beverages	1750.000-1770.600 1770.900, 1800.000

GROUP 2—VEGETABLE PRODUCTS INEDIBLE, EXCEPT FIBERS AND WOOD

Product	Commodity Number, Schedule A, 1946
Rubber and Allied Gums and Manufactures	
Rubber, crude, natural (all types); reclaimed rubber and scrap	2011.000-2019.200
Rubber tires and inner tubes (inner tubes for motorcycles, bicycles and airplanes are included in classes 7910.800, 7940.090 and 7940.110)	2022.000-2022.900
Rubber boots, shoes and overshoes (except rubber-soled footwear with fabric uppers)	2031.000, 2031.100
Golf balls; tennis balls; other rubber balls classed as athletic and sporting goods; and certain rubber toys	2043.000-2049.000
Druggists' sundries	2057.300, 2057.500 2072.500
Mechanical rubber goods (except cotton friction tape)	2061.300-2067.000
Rubber heels and soles	2098.400
Synthetic rubber	2098.700
Note.—Synthetic rubber ties are classified under Class 5540.900 as articles or wares of carbon.	
Other rubber manufactures (except combs and certain other classes)	2057.900 2098.000-2098.900
Gums, Resins, and Balsams, n. e. s.	
Lac, damar, kauri, copal, and certain other gums and resins	2102.000-2108.000 2109.700, 2119.300 2163.000, 2170.000 2171.300 2171.500-2171.900
Balsams: Copaiba and fir	2141.000, 2141.200
Drugs, Herbs, Leaves, Roots, etc.	
Cinchona bark, pyrethrum flowers, derris root, digitalis, mate, fish livers for drugs, fish-liver oil and certain other natural drugs, crude or advanced	2201.000-2203.000 2208.000-2210.040 2210.110, 2210.380 2210.290-2210.310 2210.450, 2210.490 2210.570, 2210.820 2210.620-2210.730 2210.860-2210.990 2220.050 2220.160-2220.250 2220.470, 2220.400
Oil Seeds	
Castor beans, copra, palm nuts and kernels, babassu nuts and kernels, soybeans and other oil seeds and nuts (except flaxseed, cottonseed and certain others)	2231.000, 2232.000 2234.000-2238.000 2238.800-2239.150 2239.620, 2239.640 2239.660, 2240.200 2240.700
Vegetable Oils (Inedible) and Vegetable Waxes	
Tung oil, coconut oil, palm oil, perilla oil, linseed oil, babassu-nut oil, soybean oil, castor oil, carnauba wax and certain other inedible expressed oils, fats and waxes (except olive oil and certain others)	2241.000-2243.000 2247.000, 2248.000 2250.000, 2251.000 2252.300-2256.000 2257.100 2257.400-2260.020 2260.40, 2260.060 2260.100-2260.120
Fatty acids and salts, derived from vegetable oils, animal or fish oils or certain animal fats and greases	2260.210-2260.280
Essential or distilled oils: Citronella, lemon grass, camphor, orange, clove, peppermint, eucalyptus and others (with certain exceptions)	2270.100-2275.000 2274.100-2280.320 2277.000-2280.320 2290.140-2290.490
Dyeing and Tanning Materials	
Logwood, myrobalans, wattle, nutgalls, mangrove bark, and other dyeing and tanning materials and extracts (except quebrachoand certain others)	2302.000, 2304.000 2308.000-2320.000 2320.130, 2320.180 23.20220, 2330.080 2330.150-2330.190 2342.000 2345.500-2345.900
Seeds, except Oil Seeds	
Grass and other forage crop seeds (except white and ladino clover, vetch, tall oat grass, and orchard grass seeds)	2401.000-2405.000 2405.900 2410.010-2410.030 2410.050 2410.070 2410.500
Garden and field seeds (except sugar beet and canary seed)	2451.000 2454.000-2460.900
Nursery and Greenhouse Stock	
Bulbs, bulb roots or corms (except lily of the valley pips and lily bulbs)	2501.000, 2503.000 2504.000, 2506.000 2506.900
Seedlings, cuttings, plants and other nursery and greenhouse stock (except tea plants)	2551.000-2559.500

GROUP 2—VEGETABLE PRODUCTS INEDIBLE, EXCEPT FIBERS AND WOOD—Continued

Product	Commodity Number, Schedule A, 1946
Tobacco and Manufactures	
Tobacco, unmanufactured: Cigar wrapper and filler, scrap, stems, and cigarrette leaf	2601.000-2610.000
Cigars, cigarettes and certain other tobacco products	2621.000, 2623.000 2629.900
Miscellaneous Vegetable Products	
Hops and lupulin	2810.100, 2810.200 2811.200
Starch: Potato, corn wheat and certain others	2812.000-2815.900
Cut flowers, vegetable glue, peat moss, tea waste, and other inedible vegetable products (with certain exceptions)	2921.100, 2924.500 2932.200, 2932.700 2934.000, 2935.000 2945.000, 2945.100 2946.000, 2946.100 2950.040-2950.080 2950.100-2960.150

GROUP 3—TEXTILE FIBERS AND MANUFACTURES

Cotton Semimanufactures	
Cotton yarn (all yarn numbers)	3010.001-3010.090 3020.001-2020.090
Cotton Manufactures	
Sewing thread and crochet cotton	3030.000, 3030.100
Cloth: Unbleached and bleached, (all yarn numbers and all cloth constructions)	3040.001-3040.120 3041.-3047. 3050.001-3050.091 3051.-3057.
Cloth: Printed, dyed or colored, (all yarn numbers and all cloth constructions)	3060.001-3060.091 3061.-3067.
Cloth, containing wool	3075.000
Pile fabrics and manufactures (except certain classes)	3080.100, 3080.400 3080.800-3081.210 3081.310-3081.900
Table damask, table covers, napkins, blankets, bedspreads, sheets, towels and certain other houshold articles, of cotton	3082.500-3084.300 3085.500-3086.600
Knit fabric, of cotton or other vegetable fiber	3086.700, 3086.800
Wearing apparel (except certain classes); and cotton knit or knit fabric gloves	3090.500-3090.700 3090.850, 3090.900 3110.300-3114.230
Handkerchiefs and woven mufflers	3120.-3157. 3158.000-3160.900
Laces, embroideries and articles made therefrom	3163.000-3220.800
Imitation Oriental rugs and certain other cotton floor coverings	3224.300, 3224.900
Fish nets and netting, belts and belting for machinery, urological instruments, and other cotton articles (with certain exceptions)	3226.100, 3226.300 3230.220-3230.350 3230.400-3230.460 3230.630, 3230.640 3230.700 [1], 3230.800
Jute and Manufactures	
Raw jute, jute butts, sliver, roving, yarn (whether or not bleached, dyed or otherwise treated) and cordage	3241.000, 3242.000 3250.000 3244.000-3245.500
Burlap and other jute fabrics, bagging and bags	3243.000 3246.000-3249.100
Carpets, mats, webbing and other jute manufactures	3250.600-3250.900
Flax, Hemp, and Ramie, and Manufactures	
Flax, unmanufactured	3261.000-3262.900
Yarns, threads, twines and cords, of flax, hemp or ramie	3270.100-3272.500
Fabrics of flax, hemp, ramie or other vegetable fiber (except cotton or jute)	3273.000-3287.300
Wearing apparel (except hats), of vegetable fiber other than cotton	3288.000-3288.600
Handkerchiefs, of vegetable fiber, other than cotton	3291.000-3292.900
Lace and embroideries, and articles made therefrom of vegetable fiber other than cotton	3293.000-3296.800
Sheets, pillowcases, towels and napkins, of flax, hemp or ramie	3352.000-3372.900
Fish nets, carpets, mats and other miscellaneous articles, of flax, hemp, ramie or certain other vegetable fibers	3390.000-3390.490
Other Vegetable Fibers and Manufactures	
Sisal, henequen, and other hard vegetable fibers (except manila, istle and pulu)	3401.000, 3403.000 3406.000 3409.000-3409.300 3409.500-3409.900
Binding twine, cordage, cords, twines, yarns and other manufactures, of this group of vegetable fibers (with certain exceptions)	3411.000-3417.200 3417.500-3420.300 3421.200, 3421.500
Wool, Unmanufactured	
Wool: Carpet and apparel	3501.000-3509.300 3513.000-3529.300
Mohair	3580.000-3580.400
Camel hair and Angora rabbit hair	3510.000-3511.300 3538.500-3541.000

[1] Urological instruments only.

GROUP 3—TEXTILE FIBERS AND MANUFACTURES—Continued

Product	Commodity Number, Schedule A, 1946
Wool Semimanufactures	
Noils, waste, rags, tops, yarns and other semimanufactures	3550.000–3574.600
Wool Manufactures	
Woven fabrics: Worsteds, woolens, billiard cloths, blankets, carriage and automobile robes, tapestries and upholstery goods	3607.000–3615.900
Pile fabrics and manufactures thereof	3620.000–3621.100
Knit fabric, of wool	3625.000, 3625.100
Wearing apparel (except wool felt hat bodies), wool gloves and wool hosiery	3635.000–3637.850 3639.300–3640.100
Lace, embroideries and articles made therefrom	3643.000–3650.500
Carpets, rugs and other floor coverings, except ingrain carpets	3660.000–3670.150 3670.520–3670.570
Felts, belts, and miscellaneous wool manufactures	3680.000–3680.800
Hair and Manufactures, n. e. s.	
Human hair, unmanufactured except drawn; and all manufactures therefrom	3690.000, 3690.100 3692.000–3693.900
Horse hair and other animal hair, unmanufactured (except cattle and calf tail hair), and manufactures thereof	3694.000–3695.100 3696.200–3698.900
Silk, Unmanufactured	
Unmanufactured silk	3702.000–3704.000
Silk, Manufactures	
Silk yarn	3705.190–3706.500
Silk fabrics, broad-woven (certain classes)	3708.680, 3709.680 3710.720, 3710.730 3711.720
Pile fabrics, pile ribbons and manufactures thereof	3727.100–3728.600
Wearing apparel and hosiery	3737.000–3742.800
Handkerchiefs and woven mufflers (except certain classes)	3743.400–3746.400
Laces, embroideries, and articles made therefrom	3749.000–3762.900
Ribbons, except pile; narrow woven silk fabrics; and miscellaneous articles of silk (except certain classes)	3770.000–3770.800 3799.500–3799.900
Manufactures of Rayon or other Synthetic Textiles	
Filaments, staple fiber, yarns, thread, noils and wastes	3800.000–3815.000
Fabrics	3830.030–3830.500
Wearing apparel, gloves and hosiery	3840.002–3840.190
Handkerchiefs and woven mufflers	3850.000–3851.400
Laces, embroideries, and articles made therefrom	3853.900–3860.180
Ribbons, except pile; narrow woven rayon fabrics; and certain other articles	3860.300–3860.490
Miscellaneous Textile Products	
Hats and hat braids (certain classes)	3902.100–3902.900 3906.700–3906.900 3910.100–3910.500 3912.000–3925.900 3927.500, 3927.900
Floor coverings of vegetable fiber (except certain classes); linoleum	3960.100–3963.600 3980.000–3981.100
Artificial flowers, corsets, waterproofed fabrics and other miscellaneous textile articles	3963.700–3967.500 3970.000–3971.500

GROUP 4—WOOD AND PAPER

Wood, Unmanufactured	
Logs	4007.100–4007.900 4029.500–4033.990
Round or hewn timber (including poles, posts, ties, etc.)	4035.100–4038.900
Staves, hoops, handle bolts, brier blocks, Christmas trees and certain other unmanufactured articles	4065.300 4065.600–4080.500
Sawmill Products (Lumber)	
Sawed boards, planks, deals, sawed ties and sawed timber, of softwoods and hardwoods (except Japanese white oak, Japanese maple, teak and Balsa)	4103.100–4110.900 4118.200, 4118.300 4202.000, 4202.100 4202.500–4204.300[1] 4204.700,[1] 4204.900 4205.500[1]
Packing boxes and box shooks	4207.510, 4207.555
Wood Manufactures	
Barrels, boxes, and kegs (certain classes)	4208.000, 4208.700
Shingles, veneers and lath (not including plywood)	4209.600–4211.200
Furniture, baskets, tennis-racket and badminton-racket frames, ice hockey sticks and other manufactures of wood, bamboo, willow, and rattan (with certain exceptions)	4212.000–4222.000 4225.000–4249.500 4280.100, 4280.110 4280.210, 4280.220 4280.410, 4280.450 4280.650–4280.990
Paper Base Stocks	
Pulpwood, wood pulp and other paper base stocks	4590.000–4602.900

[1] Excludes Japanese white oak.

GROUP 4—WOOD AND PAPER—Continued

Product	Commodity Number, Schedule A, 1946
Paper and Manufactures	
Standard newsprint	4711.000
Book and other printing paper, uncoated	4712.200–4712.500
Strawboard; and certain kinds of decorated, embossed, printed or coated wrapping paper	4717.300–4717.500
Grease proof and waterproof paper (except certain classes)	4721.000–4721.300
Writing and drawing paper, Bristol board, handmade paper, papeteries, and related paper (with certain exceptions)	4724.000–4724.810 4724.850, 4724.910 4724.950, 4725.200
Surface coated paper and uncoated decorated paper	4726.000–4727.500
Tissue and similar paper (except certain classes)	4728.010–4728.110 4728.210–4728.410 4728.510–4729.110 4729.210–4729.410 4729.510–4729.950
Paper board, pulpboard, cardboard, leatherboard, strawboard, container board, and pressboard (except insulating board, wallboard, and certain others)	4730.000, 4730.200 4740.130, 4740.140 4740.190–4740.240 4740.270
Cigarette paper, hanging paper, paper boxes and bags, envelopes, filtering paper, cover paper, sheathing and roofing paper, and felts and other miscellaneous papers and paper products (with certain exceptions)	4752.000–4785.300 4786.500–4790.090 4791. –4793. 4799.470, 4799.480 4799.530, 4799.540 4799.610–4799.790

GROUP 5—NONMETALLIC MINERALS

Coal and Related Fuels	
Coal, coke, and lignite	5000.000–5009.000 5013.100, 5014.300
Petroleum and Products	
Gasoline, kerosene and naphtha	5054.300–5054.700
Gas oil, residual fuel oil, and unfinished oils for further processing	5057.000, 5057.014 5062.000–5068.100
Lubricating oils, paraffin, petroleum jelly, and petroleum asphalt	5075.000–5079.100
Stone, Lime, Cement, Gypsum, and Gypsum Products	
Marble (black only); and certain articles of marble, onyx or breccia	5080.100,[4] 5080.300[4] 5090.320
Cement, lime, gypsum, slate, Brazilian pebble, unmanufactured limestone and sandstone, and certain related products	5110.060 5110.140, 5110.150 5110.250–5120.300 5120.500, 5120.700 5171.000–5193.600
Glass and Glass Products	
Cylinder, crown and sheet glass	5200.400–5200.820
Plate glass, including plate glass containing a wire netting	5220.000–5220.220
Plate, cylinder, crown and sheet glass when made into mirrors	5230.000–5230.200
Rolled, cylinder, crown and sheet glass, if ground or obscured by coloring prior to solidification; and rolled glass, fluted or figured, with or without a wire netting *Note.*—Additional duties applicable under par. 224 of the Tariff Act of 1930 on any of the foregoing classes of glass products, when bent, beveled, ornamented, etc., are included in this list as a possible subject of negotiations.	5240.000–5240.400
Laminated glass and manufactures thereof	5250.000, 5250.100
Glass bottles, vials, and jars, filled or unfilled *Note.*—Bottles and jugs, when imported filled with spirits, wines or other beverages that are dutiable under Schedule 8 of the Tariff Act of 1930, are included in this list as a possible subject of negotiations.	5260.000–5260.370
Blown or pressed glassware: Table and kitchen articles and utensils, plated or cased glass, Christmas tree ornaments, glass brick and certain other articles	5278.000–5278.390 5278.600–5278.900 5250.400
Optical glass and certain lenses for spectacles	5290.000, 5290.010 5290.130
Fused quarts tubes and articles; glass tubes; illuminating glassware; watch crystals; small glass mirrors; certain other glass articles and ceramic colors	5271.800–5273.500 5290.200–5290.550 5290.700

[4] Black marble only.

GROUP 5—NONMETALLIC MINERALS—Continued

Product	Commodity Number, Schedule A, 1946
Clay and Clay Products	
China clay, fluorspar, feldspar and other clays and earths, except artificially activated earths	5300.000–5310.010 5310.110–5310.410
China and porcelain ware: All boneware; decorated domestic or household ware; sanitary ware, plain or decorated; and other articles and wares, plain or decorated (except plain domestic or household ware, plain or decorated hotel and restaurant ware, and chemical porcelain and chemical stoneware)	5350.100,[1] 5350.200 5352.100,[1] 5352.200 [1] 5360.310–5360.520
Earthenware and stoneware (except certain classes)	5371.010–5373.990 5374.400–5374.800
Earthen tiles and bricks (except certain classes)	5380.530–5380.920 5390.100 5390.300–5390.600
Other Nonmetallic Minerals and Manufactures (except Precious Stones and Imitations)	
Chalk, natural asphalt, silica, deadburned basic refractory material, and certain other earthy and mineral substances	5391.000–5395.100 5395.500–5395.800 5420.010, 5420.020 5420.050–5420.150 5420.260–5420.750
Abrasives, natural or artificial, and manufactures (except certain classes); and diamond dies	5460.000 5466.100–5466.300 5466.500–5470.510
Asbestos and manufactures	5500.010–5520.900
Mica and manufactures	5560.000–5564.500
Graphite, carbon, and manufactures, (including synthetic rubber tires)	5540.100–5540.900 5730.100–5730.630
Talc, magnesite, salt, ceresin, monazite sand, sulfur, and certain other nonmetallic minerals	5712.000, 5712.100 5712.400–5722.200 5724.000, 5724.100 5750.500, 5930.300 5930.850–5930.950
Precious and Semiprecious Stones and Imitations and Industrial Diamonds	
Diamonds, gem and industrial, rough or cut	5950.000–5952.700
Other precious and semiprecious stones including imitation and synthetic (except certain classes)	5953.500 5954.300–5957.000 5957.300–5958.100

[1] Boneware only.

GROUP 6—METALS AND MANUFACTURES, EXCEPT MACHINERY AND VEHICLES

Iron Ore and Concentrates	
Iron ore	6001.000
Iron and Steel Semimanufactures	
Note.—Additional duties applicable, under Paragraph 305 of the Tariff Act of 1930, to the alloy content of certain iron and steel manufactures or semimanufactures (whether or not listed here), and applicable under Paragraph 309 because of galvanizing of certain iron and steel manufactures or semimanufactures (whether or not listed here) are included in this list as a possible subject of negotiations	
Pig iron; iron and steel scrap; hammer, roll and mill scale	6003.200–6004.500
Steel bars	6005.000–6010.400
Iron slabs, blooms and forms, etc.; bar iron (certain classes)	6020.100–6021.300
Wire rods (certain classes)	6036.000, 6036.100 6036.400, 6036.500
Sheets or plates	6039.000–6039.700 6054.000–6055.700
Steel ingots, cogged ingots, blooms, slabs and billets	6041.000–6042.800
Die blocks or blanks, shapes, molds and castings, of steel	6044.000–6044.800
Steel circular saw plates	6053.000–6053.700
Tin plates and terneplates	6060.100, 6060.300
Steel Mill Products—Manufactures	
Note.—See note above under iron and steel semimanufactures.	
Structural shapes, except sheet piling; rails; fishplates; and pipes and tubes, except tubes for ball or roller bearings	6081.000–6081.200 6090.100–6092.600 6092.800, 6092.900
Wire and manufactures (certain classes)	6093.000–6094.200 6094.500–6094.700 6094.900, 6095.000 6097.000–6100.160 6100.480–6100.750
Hoop, band or scroll iron or steel, and bands or strips	6110.500–6111.700
Nails, spikes, staples and tacks	6112.000–6112.900
Castings and forgings	6113.100–6113.900
Autoclaves, containers, drums and cylinders, not made by casting	6116.000, 6116.100

GROUP 6—METALS AND MANUFACTURES, EXCEPT MACHINERY AND VEHICLES—Continued

Product	Commodity Number, Schedule A, 1946
Iron and Steel Advanced Manufactures	
Cutlery	6117.000–6130.900
Machine knives and blades (certain classes)	6130.910, 6150.650
Shovels, spades, scoops, drainage tools, forks, hoes, rakes; and certain miscellaneous tools	6150.790–6150.830 6150.870–6150.990
Needles (except knitting-machine needles) and needle cases	6161.000–6162.300 6162.700–6162.900
Chains; bolts, nuts, rivets and screws; hinges, locks, and other builders' hardware	6200.410–6200.820 6200.980
Table, household, kitchen, hospital and sanitary ware and hollow or flat ware, except tin plate ware	6141.000, 6141.500 6200.970
Engraved plates, anchors, steel rolls, stoves and certain other advanced iron and steel manufactures	6200.000–6200.160 6200.910, 6200.920 6200.990
Ferro-alloys, Ores, and Metals, n. e. s.	
Manganese: Ore and alloys	6211.000–6212.300 6212.700
Chromium: Ore, metal and certain alloys	6213.100–6214.000 6215.400
Ferro-silicon and calcium silicide	6225.000–6225.400 6226.400
Tungsten: Ore, metal, alloys and compounds	6232.000–6233.900
Spiegeleisen, beryl ore, titanium ore and certain other ferro-alloying ores, metals, and alloys	6250.150–6250.204 6250.300, 6250.350 6240.420, 6250.440 6250.500 6250.580–6250.590 6270.000–6270.500
Nonferrous Metals, Except Precious Metals	
Aluminum: Bauxite; aluminum metal, scrap, alloys, mill products, and certain manufactures	6301.000–6304.000 6305.900
Copper: Ore, concentrates, metal, scrap, mill products, and certain manufactures	6400.400–6418.100 6430.000 6430.020–6430.100
Brass and bronze: Mill products and certain manufactures	6458.000–6459.000 6459.600–6459.900
Nickel: Ore, matte, oxide, metal, alloys, mill products, and manufactures	6540.000–6544.900
Tin: Ore, oxide, metal, scrap and alloys	6550.000–6551.900
Zinc: Ore, metal, scrap, dross, mill products, and manufactures	6557.000–6559.900
Antimony needle and metal; cobalt ore and metal; selenium; tin-plate scrap; cadmium; and certain lead manufactures	6651.000–6661.000 6740.030, 6740.050 6760.040, 6509.900
Magnesium: Metal, scrap, alloys, powder, and mill products	6760.310–6760.340
Snap and slide fasteners	6790.510–6790.566
Belts, buckles, harness and luggage hardware, pins, hooks and eyes, print rollers, umbrella hardware, tin foil and certain other advanced metal manufactures	6790.010–6790.070 6790.150–6790.240 6790.290–6790.382 6790.470, 6790.490 6790.570–6790.710 6790.730–6790.910 6790.990
Precious Metals, Jewelry and Plated Ware	
Platinum and platinum group metals, except ores and concentrates	6821.300–6826.100
Jewelry, related metal articles, chain and findings	6835.000–6872.900
Rosaries and similar articles of religious devotion	6881.000–6881.200
Laces, embroideries and similar articles of decorative metals	6882.000–6883.900
Gold and silver solid or plated ware; and certain gold manufactures	6900.060–6900.150 6900.240–6900.390

GROUP 7—MACHINERY AND VEHICLES

Electrical Machinery and Apparatus	
Vacuum cleaners and parts	7069.000, 7069.100
Generators, transformers, converters, switches, sockets and motors	7090.000–7090.430
Table, household and hospital utensils, containing electrical heating elements (except electric flatirons)	7090.510–7090.550 7090.590 [6]
Radio, telegraph, and telephone apparatus and parts	7090.660–7090.690
X-ray tubes and apparatus; therapeutic apparatus; and photocells and other electronic tubes	7090.600 7090.700–7090.750
Batteries and flashlights	7090.800–7090.820
Electric stoves, furnaces and heaters	7090.850, 7090.890
Electric fans, washing machines, refrigerators, miniature lamps and electrical industrial machinery	7064.000, 7067.000 7090.450, 7090.490 7090.990–7100.900
Engines, Turbines, and Parts, n. e. s.	
Engines and parts; Turbines, other steam engines, locomotives and internal combustion engines	7110.000–7110.590

[6] Exclude electric flatirons.

GROUP 7—MACHINERY AND VEHICLES—Continued

Product	Commodity Number, Schedule A, 1946
Other Machinery, Except Agricultural	
Metalworking machinery and parts	7400.200–7400.900
Textile machinery	7495.000–7515.900 7550.900
Sewing machines	7550.100–7550.600
Cream separators and other centrifugal machines	7720.200–7720.900
Office appliances, except typewriters	7786.100–7786.900
Printing machinery, linotype machines and bookbinding machinery	7781.800 7800.200–7800.260 7800.320
Sawmill and wood working machinery, and certain machines for making paper and pulp, and paper box machinery	7800.300, 7800.830 7800.960–7800.980
Food and tobacco preparing, packaging and manufacturing machinery	7800.330, 7800.340 7800.360, 7800.640 7800.400–7800.480 7800.520–7800.590
Lawn mowers	7800.100
Balls and rollers for bearings	7690.000
Other mining, construction, and industrial machinery (except shoe machines; sludge, tar and oil spreading machines; ball and roller bearings; certain household food grinding and cutting machines; and calendar rolls or bowls)	7781.300, 7800.350 7800.380, 7800.390 7800.620, 7800.680 7800.730, 7800.950 7800.990
Agricultural Machinery and Implements	
Agricultural machinery and implements, except cotton gins and bale ties	7850.000–7890.040 7890.060–7890.150 7890.190
Vehicles, except Agricultural	
Automobiles, trucks, and busses	7900.100–7902.900
Aircraft and aircraft engines	7910.100–7910.800
Pleasure boats	7925.100–7925.900 7940.170
Bicycles and motorcycles	7940.010–7940.110
Tricycles and baby carriages	7940.130–7940.160
Railway cars, horsedrawn carriages, canoes, wheelbarrows, and certain other vehicles	7940.200–7940.290

GROUP 8—CHEMICALS AND RELATED PRODUCTS

Coal-Tar Products	
Coal-tar products: Crude; certain intermediates; explosives; certain flavor and perfume materials; photographic chemicals; and synthetic phenolic resins	8000.000–8020.100 8040.100–8040.680 8040.980, 8040.990 8089.000, 8089.150 8089.600, 8089.800
Medicinals and Pharmaceutical Preparations	
Alkaloids and their salts: Quinine and others from cinchona; caffeine, nicotine and theobromine	8102.000–8110.120 8110.150, 8110.450
Menthol, santonin, medicinal mineral oils, plasters, gland extracts, bile compounds, Haarlem oil, salicin, vitamins and certain other medicinal preparations	8127.100–8129.000 8130.350, 8130.410 8130.630–8130.800 8130.930–8140.550 8140.700 8150.200–8150.400
Industrial Chemicals	
Trichlorethylene, ethanolamine and other hydroxy alkyl amines, alkylene diamines and vinyl acetate	8170.180, 8170.300 8170.570, 8170.580
Acids and anhydrides: Acetic, formic, oxalic, sulfuric, nitric, phosphoric and tannic acids; acetic anhydride; and carbon dioxide	8200.000, 8200.100 8203.000–8206.000 8211.500, 8229.040 8220.120, 8220.310 8220.350–8220.390
Alcohols: Amyl, butyl, ethyl, fusel oil, hexyl and propyl	8231.000–8231.500
Ammonium compounds	8240.000–8243.800
Barium chloride, hydroxide and certain other barium compounds; calcium acetate and carbide	8245.100, 8245.300 8245.900–8247.100
Cellulose sheets, rods, tubes, strips and other unfabricated forms	8250.000–8253.000
Cobalt oxide, copper sulfate, glycerin, iodine and chlorinated lime	8261.000–8310.200
Magnesium compounds	8312.000–8312.000
Potassium and sodium compounds (certain classes)	8321.000, 8329.000 8330.400, 8330.500 8330.800–8335.000 8337.000–8340.000 8350.110, 8350.120 8350.180–8350.310 8350.350, 8350.390 8350.400, 8350.530 8350.600

GROUP 8—CHEMICALS AND RELATED PRODUCTS—Continued

Product	Commodity Number, Schedule A, 1946
Radium salts	8[illegible].000
Strontianite; blackings and polishing preparations; precipitated chalk; uranium oxide, aluminum compounds, antimony compounds, formaldehyde, decoloring chars and carbons, dextrine, flavoring extracts, certain synthetic resins, casein compounds, titanium compounds, and certain other industrial chemicals	8380.005, 8380.009 8380.017, 8380.023 8380.305 8380.029–8380.220 8380.275, 8380.300 8380.275, 8380.300 8380.340–8380.365 8380.380, 8380.690 8380.390–8380.430 8380.560–8380.620 8380.697–8380.820 8380.870, 8380.921 8380.933 8380.935–8380.940 8380.983–8380.992
Pigments, Paints, and Varnishes	
Mineral earth pigments (except natural iron oxide, siennas, and ground barytes)	8400.200, 8401.000 8401.200, 8402.000 8402.200–8402.700
Chemical pigments (except lamp black and certain other black pigments, chromium pigments, precipitated calcium sulphate, and vermillion reds)	8410.000–8420.010 8420.090–8420.120 8420.140–8420.210 8420.250
Paints, stains, enamels and varnishes	8431.000–8441.300
Fertilizers and Fertilizer Materials	
Nitrogenous fertilizer materials, except dried blood and urea	8500.000–8504.000 8506.000 8508.100–8509.800
Phosphate, potash and certain other fertilizer materials	8511.300–8525.100 8527.900–8549.000 8559.300–8559.900
Explosives, Fireworks, and Ammunition	
Dynamite, percussion caps, firecrackers and cartridges	8621.300, 8621.500 8692.000, 8692.100 8693.500, 8693.900
Soap and Toilet Preparations	
Soap and soap powders (except castile and certain assistants used in dyeing, etc.)	8712.300, 8712.500 8719.200–8719.900
Perfume materials (certain classes); perfumery, and toilet waters and toilet preparations	8721.100, 8722.000 8722.200, 8722.500 8722.810–8731.200

GROUP 9—MISCELLANEOUS

Photographic Goods	
Photographic lenses and cameras of which the lens if the component of chief value	9001.500–9001.900
Motion-picture and other photographic films (except undeveloped news reels and photographic and motion picture film, of American manufacture exposed abroad; and photographic film positives, other than motion-picture for moving picture exhibits)	9010.000–9022.900 9025.600–9025.800
Dry plates	9030.100
Photographic papers, except Baryta coated	9040.000–9040.200 9040.400
Scientific and Professional Instruments, Apparatus, and Supplies, n. e. s.	
Optical goods, instruments and parts, except microscopes	9140.200–9150.130 9150.250, 9150.290
Dental hypodermic needles, extraction forceps and surgical needles	9160.100, 9160.200 9160.590
Scientific, professional and laboratory instruments and parts (certain classes)	9180.000–9180.020 9180.220, 9180.270
Musical Instruments, Parts and Accessories	
Band and orchestra instruments, and parts (except guitars, banjos, mandolins, and cymbals)	9200.000, 9212.000 9212.300, 9212.500 9213.100–9213.700
Accordions (except piano accordions), and parts therefor	9214.500 9214.600 [1] 9214.700 [1]
Chimes; carillons and parts	9215.200–9215.400
Pipe organs and parts	9260.400–9260.700
Phonographs, parts, records, and accessories	9262.000–9262.400
Certain musical instruments (except pianos); parts and accessories	9280.000 9280.400–9280.700

[1] Except parts and reeds for piano accordions.

GROUP 9—MISCELLANEOUS—Continued

Product	Commodity Number, Schedule A, 1946
Dolls and Toys, Athletic and Sporting Goods	
Dolls and doll clothing containing lace (but not dolls without lace); and certain classes of toys	9400.400, 9410.400 9410.500, 9410.620 9410.810–9410.860 9410.880
Fishing tackle, except fish baskets or creels	9420.100–9420.550 9420.590
Other athletic and sporting goods	9433.300–9439.990
Firearms	
Firearms (small arms)	9470.000–9470.590
Books, Maps, Pictures, and Other Printed Matter, n. e. s.	
Books, maps, engravings, etchings, pamphlets, periodicals, lithographically printed matter and other printed matter (except certain classes)	9500.000–9503.200 9503.400–9510.100 9510.040–9521.100 9521.300, 9521.400 9522.200–9530.100 9530.700, 9530.780 9530.790
Playing cards, postcards and greeting cards (certain classes)	9510.030 9530.340–9530.400 9530.480–9530.600
Clocks, Watches, Clockwork Mechanisms, and Parts	
Clocks and clock movements, and jewels and parts therefor	9540.100–9550.980
Clockwork measuring and regulating mechanisms, devices and instruments, and jewels and parts therefor	9590.001–9590.081
Art Works and Antiques	
Art works and antiques (certain classes)	9620.000–9623.100 9640.000–9650.000 9650.400–9670.200
Miscellaneous Articles, n. e. s.	
Beads and fabrics and articles of beads	9701.000, 9701.100 9701.300–9703.900
Brushes	9710.000–9715.900
Buttons, except pearl	9720.000, 9730.990 9725.000–9730.800
Plastics: Casein, cellulose and synthetic resin articles (certain classes)	9740.000–9753.900 9850.630–9850.670
Combs, except metal and rubber (certain classes)	9760.500, 9760.900
Pencils, pens, pen points, colored leads and crayons (certain classes)	9780.200–9780.230 9780.290, 9780.400 9790.100–9790.300 9790.550, 9790.800
Pipes and other smokers' articles	9800.000–9800.990
Umbrellas, canes, and parts	9820.030–9820.110
Ink and ink powders	9850.400–9850.500
Plasticine and other modeling clay	9850.990
Miscellaneous articles (including incandescent mantles, printing plates, certain products of synthetic resins, certain wastes, certain containers, household furniture and ice)	9850.100, 9850.120 9850.250, 9850.500 9850.600, 9850.620 9850.901–9850.909 9850.930, 9850.950 9912.100, 9919.300 9920.500, 9920.900 9950.000, 9990.050 9990.250, 9990.300 9990.550, 9990.700

EXHIBIT XXII–D

DIGEST ON CHINA CLAY OR KAOLIN

TYPIFIES DIGEST ON THE VARIOUS COMMODITIES CONSIDERED FOR TARIFF CONCESSIONS IN NEGOTIATIONS SCHEDULED TO BEGIN AT GENEVA, SWITZERLAND, IN APRIL 1947

Prepared by United States Tariff Commission

Stat. import class (1939): 5300.0

Par. No. 207
United Kingdom

China clay or kaolin—United States production, exports, and imports, in specified years, 1926 to 1943

Year	Production [1]	Domestic exports	Imports for consumption from—	
			All countries	United Kingdom
	Quantity (1,000 short tons)			
1926	432	(3)	[2] 396	395
1929	518		280	275
1932	345		100	99
1937	732		147	137
1938	595		84	82
1939	781		115	113
1941	1,068		85	85
1943	929		56	55
	Value (1,000 dollars)			
1926	3,772	(3)	[2] 3,484	3,461
1929	4,281		2,698	2,641
1932	2,011		461	451
1937	5,350		1,211	1,120
1938	4,741		754	731
1939	6,201		1,016	993
1941	9,206		902	897
1943	8,067		585	577

[1] Sales by domestic producers.
[2] Exceeds imports in any other year.
[3] Not available. Known to be relatively small, probably less than 2 percent of domestic production.

Source: Production from statistics of the U. S. Bureau of Mines; imports from official statistics of the U. S. Department of Commerce.

Item	United States tariff				Proposed negotiating country
	Act of 1913	Act of 1922	Act of 1930	1945 rate	
	Per long ton				
Par. 207: China clay or kaolin	$1.25	$2.50	$2.50	[1] $1.75	United Kingdom.

[1] Trade agreement with the United Kingdom, effective January 1939.

NOTE.—The ad valorem equivalent of the duty on all imports under each of the recent tariff acts (designated by the year of passage) averaged as follows: 1913, 15 percent; 1922, 24 percent; 1930 (prior to Jan. 1, 1939), 30 percent; 1930 (year 1939), 18 percent; 1930 (years 1939 to 1944), 16 percent.

COMMENT

China clay or kaolin is a high-grade white or nearly white clay formed by the decomposition of feldspathic rocks. The terms "china clay" and "kaolin" are synonymous, but the trade generally calls the domestic product kaolin and the imported product, practically all from England, china clay.[1] All of the English clay and most of the domestic kaolin must be freed of impurities before they can be used. Washing with water is the method of processing used in England, while the same method of air separation is employed in the United States.

About three-fifths of the total domestic consumption of kaolin is normally used in paper, especially in paper for books, periodicals, and cardboards. The remaining two-fifths, or so, is accounted for by numerous United States industries, the most important being the pottery, refractories, rubber, and cement; those of lesser importance include the paint, linoleum, oilcloth, and chemical industries. Practically all of the imports of china clay are used in paper and pottery; the combined tonnage (imported and domestic) used for these two purposes normally accounts for about three-fourths of total domestic consumption, the remaining quarter being supplied almost entirely by domestic kaolin, which is especially suitable for refractories, rubber articles, and cement. Sales of domestic paper and potting kaolins account for about 70 percent of the output in the United States and it is this part of the industry which encounters practically all of the import competition.

The United States kaolin industry, with a capitalization estimated at about 9 million dollars, is composed of about 50 concerns, normally employing about 2,500 to 3,000 wage earners. Nine of these concerns produced about four-fifths of the total output in 1941. Georgia and South Carolina ordinarily account for 85 to 90 percent of the total United States production, of which Georgia alone usually supplies about 70 to 75 percent. Most of the remaining domestic output is mined in North Carolina, Florida, Pennsylvania, and California. Imports compete almost entirely with the paper and potting kaolins of Georgia and South Carolina, and with the potting kaolins of North Carolina and Florida.

United States exports of kaolin, not separately reported before 1945, are known to be relatively small and probably constituted less than 2 percent of domestic production in the last decade; in the first 6 months of 1945 they were valued at $55,000.

Before World War II the English china clay industry was the largest merchant-clay industry in the world, but it has been surpassed by the United States in point of output in the last few years. The capitalization of the English industry is estimated to be between 20 and 25 million dollars and it normally employs about 4,000 wage earners. China clay usually ranks next to coal as the most important mineral product mined in the United Kingdom. During most of the 1930's British output of china clay ranged from 800,000 to 900,000 short tons, with an estimated value of 6 million to 8 million dollars. One concern, known in the trade as the English china-clay combine, accounts for about four-fifths of the total output and for a somewhat larger portion of the exports. The United Kingdom has long held the lead in international trade in china clay.

During the 1920's about three-fourths of the total British production of china clay was exported and the United States took about 55 percent of the 650,000 tons exported annually in the first half of that decade. In 1938 and 1939 when annual exports from the United Kingdom averaged less than 450,000 tons, the proportion taken by the United States had declined to 28 percent. During the war, British exports greatly declined because of the loss of European markets, and thus the dwindling shipments to the United States in 1941–44 accounted for about 64 percent of the total.

Before World War I, domestic kaolins were poorly prepared, and the higher-quality English clay supplied almost two-thirds of the 400,00 tons consumed annually in the United States. Even as late as the middle 1920's imports still supplied about half of the domestic consumption, then about 750,000 to 800,000 tons annually. Beginning with the late 1920's, however, a gradual shift in favor of the domestic kaolins took place and by 1939 imports supplied only about 13 percent of domestic consumption (in 1944 the corresponding ratio was about 5

[1] For purposes of brevity, reference to either of the two terms hereafter implies the inclusion of the other, unless otherwise qualified.

percent). This shift was caused chiefly by a radical improvement in the quality of the domestic product and technological adaptations in the consuming industries to domestic clay.

Although imports, by kinds, are not reported, domestic paper clay is known to have made by far the largest replacement of imports, advancing from slightly over one-third of the total amount used in 1926 (estimated at 435,000 tons) to about 90 percent of the 500,000 tons consumed in 1939 (the corresponding proportion in 1941–44 was about 96 percent).

Although displacement of imported by domestic potting kaolin has also taken place to some extent, the English product still supplies a considerable portion of the consumption for this purpose, because a large part of the domestic pottery industry prefers the imported material. Much of this preference is due to the reluctance of domestic pottery manufacturers to change their complicated formulas. The tonnage of kaolin used in pottery in this country, however, is only about one-fourth of that used in paper. Because of the great decline in imports of paper clay, potting kaolin became the leading type imported in the late 1930's. In some years during the 1920's, when the total United States consumption of potting kaolin approximated 200,000 tons, it is estimated that imports supplied about 60 percent. By the late 1930's, however, when consumption of that type was somewhat less, the corresponding ratio had declined to about 40 to 45 percent. In 1941–44, when annual consumption of potting kaolin averaged about 145,000 tons, the proportion supplied by imports was probably about 25 or 30 percent.

The chief factor contributing to the wartime decline in imports is believed to have been the continuation of the prewar trend toward displacement of imported by domestic kaolin through technological advances in production and use. Even in 1939, under the lower rate of duty provided in the United Kingdom trade agreement ($1.75 per ton), and before the war had any perceptible effect on the English china clay industry, imports were 7 percent less in quantity than the average annual amount entered in 1936–38, whereas the 1939 domestic production was larger than ever before. Transportation difficulties, accompanied by higher ocean freight and other delivery charges (which increased about $1 per short ton between 1939 and the latter part of 1943), contributed substantially to the lower wartime imports, but very little, if any, of the curtailment was due to restricted operation of the English deposits.

Cost of transportation is an important element in the competitive position of domestic and imported kaolins in United States markets. Most of the United States kaolin-consuming centers are located north of the Ohio and Potomac Rivers, between 500 and 1,200 miles distant from sources of domestic kaolin, and freight charges to some markets may amount to as much as the price paid for clay f. o. b., the domestic mine. Despite the proximity of English china clay deposits to ports of shipment for export, ocean transportation and other delivery charges to many United States markets may likewise approximate the purchase price in England and frequently raise the delivered price of the imported clay above that of the domestic product. This applies especially to English potting kaolin because much of that product is sold to users remote from the seaboard. Inasmuch as delivered price has been the virtually determining factor in paper-clay competition, the major portion of the imports of that type has been used in markets near the North Atlantic seaboard to which the English clay can often be transported at a lower cost than can the southern kaolins.

The extent to which the English china clay industry will be able to recover, or better, its immediate prewar position in the United States market, will depend greatly on factors (other than the tariff rate) that cannot be foretold; they include costs of production, both in the United Kingdom and in the United States; ocean transportation charges; respective rail rates to domestic markets;[3] the competitive impact of imported pottery; and the degree to which further technological advances are made in the production and use of domestic kaolin.

[3] Recent action by the Interstate Commerce Commission on class rates may lead to review and to adjustments of commodity rail rates, including those on kaolin, that may be more favorable to the South.

TABLE 1.—*United States foreign trade, 5-year averages, 1851–1945, annual, 1937–45*

Period [1]	General imports	Exports (including reexports)	Excess of imports (−) or exports (+)	Indexes of—		Per capita foreign trade	
				Imports (1937=100)	Exports (1937=100)	Imports	Exports
	Million dollars	*Million dollars*	*Million dollars*				
Average:							
1851–60	284	249	−35	9	7	$8.88	$7.78
1861–65	255	188	−67	8	6	7.08	5.22
1866–70	408	321	−87	13	10	10.20	8.03
1871–75	578	502	−76	19	15	12.84	11.16
1876–80	493	677	+184	16	20	9.86	13.54
1881–85	667	792	+125	22	24	11.70	13.89
1886–90	717	738	+21	23	22	11.38	11.71
1891–95	785	892	+107	25	27	11.21	12.74
1896–1900	742	1,157	+415	24	35	9.76	15.22
1901–05	1,012	1,478	+466	33	44	12.05	17.60
1906–10	1,380	1,814	+434	45	54	15.00	19.72
1911–15	1,742	2,529	+787	56	76	17.25	25.04
1916–20	3,512	6,803	+3,291	114	203	33.13	64.18
1921–25	3,450	4,397	+947	112	131	29.74	37.91
1926–30	4,033	4,777	+744	131	143	32.79	38.84
1931–35	1,713	2,025	+312	56	60	13.49	15.94
1936–40	2,482	3,220	+738	80	96	18.80	24.39
1941–45	3,507	10,051	+6,544	114	300	25.79	73.90
Annual:							
1937	3,084	3,349	+265	100	100	23.91	25.96
1938	1,960	3,094	+1,134	64	92	15.08	23.80
1939	2,318	3,177	+859	75	95	17.69	24.25
1940	2,625	4,021	+1,396	85	120	19.89	30.46
1941	3,345	5,147	+1,802	108	154	25.15	38.70
1942	2,745	8,080	+5,335	89	241	20.48	60.30
1943	3,382	12,964	+9,582	110	387	25.24	96.74
1944	3,921	14,261	+10,340	127	426	28.41	103.34
1945	4,140	9,805	+5,665	134	293	29.57	70.04

[1] Fiscal year ending June 30 before 1900; calendar years thereafter.

Source: *Statistical Abstract of the United States* and official statistics of the U. S. Department of Commerce. (TC25630)

TABLE 2.—*United States foreign trade and national income, 1913 and 1919–45*

[Values in current dollars]

Year	National income	Imports (general)	Ratio of imports to national income	Exports (including reexports)	Ratio of exports to national income	Year	National income	Imports (general)	Ratio of imports to national income	Exports (including reexports)	Ratio of exports to national income
	Billion dollars	*Million dollars*		*Million dollars*			*Billion dollars*	*Million dollars*		*Million dollars*	
1913	37.8	1,793	4.7	2,484	6.6	1932	40.0	1,323	3.3	1,611	4.0
1919	67.6	3,904	5.8	7,920	11.7	1933	42.3	1,450	3.4	1,675	4.0
1920	69.7	5,278	7.6	8,228	11.8	1934	49.5	1,656	3.3	2,133	4.3
1921	52.6	2,509	4.8	4,485	8.5	1935	55.7	2,047	3.7	2,283	4.1
1922	60.4	3,113	5.2	3,832	6.3	1936	64.9	2,423	3.7	2,456	3.8
1923	70.0	3,792	5.4	4,167	6.0	1937	71.5	3,084	4.3	3,349	4.7
1924	70.0	3,610	5.2	4,591	6.6	1938	64.2	1,960	3.1	3,094	4.8
1925	74.6	4,227	5.7	4,910	6.6	1939	70.8	2,318	3.3	3,177	4.5
1926	76.8	4,431	5.8	4,809	6.3	1940	77.6	2,625	3.4	4,021	5.2
1927	76.2	4,185	5.5	4,865	6.4	1941	98.9	3,345	3.8	5,147	5.3
1928	80.1	4,091	5.1	5,128	6.4	1942	122.2	2,745	2.2	8,080	6.6
1929	83.3	4,399	5.3	5,241	6.3	1943	149.4	3,382	2.3	12,964	8.7
1930	68.9	3,061	4.4	3,843	5.6	1944	160.7	3,971	2.4	14,261	8.9
1931	54.5	2,091	3.8	2,424	4.4	1945	161.0	4,140	2.6	9,805	6.1

Source: *Statistical Abstract of the United States* and *Survey of Current Business*.

TABLE 3.—*United States foreign trade, by economic classes, average 1851–60, and 5-year averages, 1861–1940*

Period	Foodstuffs	Crude materials	Semi-manufactures	Finished manufactures	Period	Foodstuffs	Crude materials	Semi-manufactures	Finished manufactures
	As percent of total imports [1]					As percent of total exports			
1851–60	27.1	9.6	12.5	50.7	1851–60	22.0	61.7	4.0	12.3
1861–65	31.7	14.1	13.6	40.5	1861–65	56.5	20.0	5.7	17.8
1866–70	33.2	11.7	13.9	41.2	1866–70	22.8	57.6	4.7	14.9
1871–75	34.3	16.1	13.6	36.1	1871–75	35.0	44.9	4.7	15.3
1876–80	39.7	18.6	12.4	29.3	1876–80	48.3	32.2	4.6	14.9
1881–85	34.0	20.0	13.7	32.2	1881–85	46.5	33.8	4.8	14.9
1886–90	32.3	22.6	15.8	29.3	1886–90	40.0	38.1	5.5	16.4
1891–95	36.6	23.6	14.4	25.4	1891–95	44.4	33.7	6.3	15.6
1896–1900	31.0	29.5	13.3	26.2	1896–1900	42.9	26.1	9.6	21.3
1901–05	25.3	33.4	16.6	24.7	1901–05	34.3	30.3	11.3	24.1
1906–10	22.8	34.6	17.8	24.8	1906–10	27.0	31.7	14.2	27.1
1911–15	25.4	34.9	17.4	22.4	1911–15	23.1	30.7	15.4	30.7
1916–20	28.4	40.1	17.1	14.4	1916–20	26.8	18.2	15.4	39.6
1921–25	24.1	37.4	17.7	20.9	1921–25	23.7	27.5	12.4	36.3
1926–30	22.4	36.8	18.9	21.9	1926–30	16.1	24.4	14.1	45.3
1931–35	29.3	28.9	18.7	23.0	1931–36	12.7	30.2	14.5	42.6
1936–40	27.3	33.1	20.9	18.7	1936–40	9.3	19.0	19.3	52.4

[1] General imports through 1932; imports for consumption thereafter.

Source: *Statistical Abstract of the United States.*

TABLE 4.—*United States foreign trade, by areas, 5-year averages, 1921–35, and 3-year average, 1936–38*

[Value in millions of dollars]

Item	Imports [1]				Exports [2]				Excess of imports (−) or exports (+)			
	1921–25	1926–30	1931–35	1936–38	1921–25	1926–30	1931–35	1936–38	1921–25	1926–30	1931–35	1936–38
Canada	394	469	229	345	619	819	295	454	+225	+350	+66	+109
Newfoundland	3	10	7	7	8	11	6	8	+5	+1	+1	+1
Cuba	300	208	78	127	181	133	41	79	−119	−75	−37	−48
Mexico	147	126	39	53	146	122	48	83	−1	−4	+9	+30
Brazil	152	200	93	107	60	89	34	60	−92	−111	−59	−47
Argentina	83	95	36	82	117	165	43	79	+34	+70	+7	−3
Other Latin America	253	377	175	204	238	341	137	244	−15	−36	−38	+40
United Kingdom [3]	356	326	118	174	941	837	374	499	+585	+511	+256	+325
Western and Southern Europe [4]	513	585	260	350	919	873	396	519	+406	+288	+136	+169
Germany	132	211	85	79	383	400	128	112	+251	+189	+43	+33
Soviet Union	5	18	13	25	33	78	33	49	+28	+60	+20	+24
Eastern Europe [5]	37	66	41	82	35	48	28	64	−2	−20	−13	−18
Philippines	80	114	89	107	52	74	48	77	−28	−40	−41	−30
Japan	335	380	148	168	242	246	170	244	−93	−134	+22	+76
China	142	141	48	75	104	109	63	44	−38	−32	+15	−31
British Malaya	183	250	83	174	8	13	4	8	−145	−237	−79	−166
British India, Burma, and Ceylon	136	173	60	92	40	56	29	37	−96	−117	−31	−55
Netherlands East Indies	55	87	36	55	17	34	10	22	−38	−53	−28	−63
Other Asia	46	51	25	47	43	42	27	66	−5	−9	+2	+19
Australia, with New Zealand and other Oceania	54	53	16	40	141	177	49	91	+87	+124	+33	+51
Africa	72	91	33	66	70	110	62	128	−2	+19	+30	+62
Total	3,450	4,033	1,713	2,489	4,397	4,777	2,025	2,967	+947	+744	+312	+478

[1] General imports.
[2] Exports including reexports.
[3] Includes Ireland, 1921–25.
[4] Sweden, Norway, Denmark, Iceland, Ireland, (1926–38), Belgium, France, Netherlands, Switzerland, Azores and Madeira Islands, Gibraltar, Italy, Portugal, Spain, Greece, Malta, Gozo and Cyprus Islands.
[5] Austria, Czechoslovakia, Hungary, Estonia, Finland, Latvia, Lithuania, Poland and Danzig, Albania, Bulgaria, Rumania, and Yugoslavia.

Source: *Statistical Abstract of the United States.*

TABLE 5.—*United States foreign trade, by areas, 5-year averages, 1921–35, and 3-year average, 1936–38*

[In percentages of total tradel

Area	Imports [1]				Exports [2]			
	1921–25	1926–30	1931–35	1936–38	1921–25	1926–30	1931–35	1936–38
Canada	11.4	11.6	13.4	13.9	14.1	17.1	14.6	15.3
Newfoundland	.1	.2	.4	.3	.2	.2	.3	.3
Cuba	8.7	5.2	4.6	5.1	4.1	2.8	2.0	2.7
Mexico	4.3	3.1	2.3	2.1	3.3	2.6	2.4	2.8
Brazil	4.4	5.0	5.4	4.3	1.3	1.9	1.7	2.0
Argentina	2.4	2.4	2.1	3.3	2.7	3.5	2.1	2.7
Other Latin America	7.3	9.3	10.2	8.2	5.4	7.2	6.8	8.2
United Kingdom [3]	10.3	8.1	6.9	7.0	21.4	17.5	18.5	16.8
Western and Southern Europe [4]	14.9	14.5	14.1	14.1	20.9	18.2	19.5	17.5
Germany	3.8	5.2	5.0	3.2	8.7	8.4	6.3	3.8
Soviet Union	.1	.4	.8	1.0	.7	1.0	1.0	1.0
Eastern Europe [5]	1.1	1.7	2.4	3.3	.8	1.0	1.4	2.2
Philippines	2.3	2.8	5.2	4.3	1.2	1.5	2.4	2.6
Japan	9.7	9.4	8.6	6.7	5.5	5.1	8.4	8.2
China	4.1	3.5	2.8	3.0	2.4	2.3	3.1	1.5
British Malaya	4.4	6.2	4.8	7.0	.2	.3	.2	.3
British India, Burma, and Ceylon	4.0	4.3	3.5	3.7	.9	1.2	1.4	1.2
Netherlands Indies	1.6	2.2	2.2	3.4	.4	.7	.5	.7
Other Asia	1.4	1.3	1.5	1.9	1.0	.9	1.3	2.2
Australia, New Zealand, and other Oceania	1.6	1.3	.9	1.6	3.2	3.7	2.4	3.1
Africa	2.1	2.3	1.9	2.6	1.6	2.3	3.1	4.3
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] General imports.
[2] Exports including reexports.
[3] Includes Ireland 1921–25.
[4] Sweden, Norway, Denmark, Iceland, Ireland (1926–38), Belgium, France, Netherlands, Switzerland, Azores and Madeira Islands, Gibraltar, Italy, Portugal, Spain, Greece, Malta, Gozo and Cyprus Islands.
[5] Australia, Czechoslovakia, Hungary, Estonia, Finland, Latvia, Lithuania, Poland and Danzig, Albania, Bulgaria, Romania, and Yugoslovia.

Source: *Statistical Abstract of the United States.*

TABLE 6.—*United States balance of international payments, 5-year averages, 1921–40, annual, 1919–40*

[Excess of payments (−) or receipts (+)]

[In millions of dollars]

Period	Merchandise trade	Shipping and freight	Travel expenditures	Interest and dividends	Personal remittances and institutional contributions	Other current items (excluding silver)	All current items	Long-term capital movement	Short-term capital movement	Gold	Silver	Errors and omissions
1921–25	+947	−29	−197	+466	−361	+58	+884	−545	−4	−266	+10	−79
1926–30	+744	−92	−311	+611	−342	+116	+726	−638	+35	−9	+19	−133
1931–35	+312	−76	−171	+349	−202	+20	+233	+226	−42	−512	−107	+202
1936–40	+737	−91	−181	+323	−157	+5	+636	+272	+801	−2,243	−107	+641
1919	+4,016	+291	−67	+414	−832	−2,474	+1,348	−384	n. a.	+104	+150	−1,278
1920	+2,950	+271	−123	+468	−634	−271	+2,661	−832	n. a.	+50	+26	−1,905
1921	+1,976	+60	−124	+300	−450	−157	+1,605	−892	n. a.	−696	−11	−316
1922	+719	−55	−182	+439	−314	+43	+650	−816	n. a.	−235	−8	+408
1923	+875	−30	−189	+546	−328	+176	+550	−45	−33	−295	−2	−175
1924	+981	−46	−226	+402	−339	+107	+939	−700	+119	−216	−36	−178
1925	+683	−73	−264	+582	−373	+119	+674	−570	−106	+102	+35	−135
1926	+378	−45	−262	+593	−361	+128	+431	−726	+419	−72	+23	−75
1927	+680	−57	−286	+581	−355	+137	+700	−1,037	+585	+154	+21	−423
1928	+1,037	−88	−327	+647	−340	+85	+1,008	−847	−348	+272	+19	−104
1929	+842	−119	−344	+662	−318	+79	+767	−278	−4	−120	+19	−384
1930	+782	−152	−334	+581	−306	+153	+724	−298	−479	−278	+11	+320
1931	+333	−119	−247	+454	−279	+35	+177	+104	−337	+176	−2	+92
1932	+289	−84	−194	+336	−217	+47	+165	+225	−446	−11	−6	+73
1933	+225	−46	−133	+302	−191	−8	+149	+77	−419	+173	−41	+61
1934	+478	−62	−137	+301	−102	+15	+432	+200	+222	−1,178	−91	+416
1935	+236	−67	−144	+366	−102	+11	+340	+436	+1,072	−1,720	−396	+368

TABLE 6.—*United States balance of international payments, 5-year averages, 1921–40, annual, 1919–40*—Continued

[Excess of payments (−) or receipts (+)]

[In millions of dollars]

Period	Merchandise trade	Shipping and freight	Travel expenditures	Interest and dividends	Personal remittances and institutional contributions	Other current items (excluding silver)	All current items	Long-term capital movement	Short-term capital movement	Gold	Silver	Errors and omissions
1936	+33	−89	−180	+298	−176	+10	−104	+777	+431	−1, 147	−114	+157
1937	+265	−130	−213	+282	−175	+28	+57	+521	+356	−1, 271	−88	+425
1938	+1, 134	−36	−173	+384	−153	+17	+1, 173	+97	+344	−1, 657	−206	+249
1939	+859	−128	−209	+320	−142	+33	+733	+3	+1. 345	−3, 040	−71	+1, 030
1940	+1, 396	−73	−130	+330	−137	−65	+1, 321	−39	+1, 531	−4, 099	−55	+1, 341

Source: U. S. Department of Commerce: *The United States in the World Economy*; for 1939 and 1940: *International Payments of the United States in 1940.*

TABLE 7.—*Number of tariff paragraphs and statistical items on the dutiable list under consideration in negotiation with the 18 countries of the nuclear group, showing the value of the imports of these items in 1939 and their relation to total dutiable imports*

[Approximate]

Tariff schedule	Number of paragraphs in which there are items listed for negotiation	Number of statistical classes listed for negotiation (1946)	Total value of dutiable imports in 1939	Total value of imports in 1939 of dutiable items subject to negotiation	Percent of total dutiable imports
1. Chemicals, oils, and paints	74	324	[1] $95, 000, 000	[1] $46, 550, 000	49
2. Earths, earthenware, and glassware	34	326	[2] 25, 000, 000	[2] 22, 500, 000	90
3. Metals and manufactures of	76	778	[3] 94, 000, 000	[3] 75, 200, 000	80
4. Wood and manufactures of	11	65	[4] 32, 000, 000	[4] 31, 040, 000	97
5. Sugar, molasses, and manufactures of	5	42	90, 500, 000	87, 785, 000	97
6. Tobacco and manufactures of	3	9	36, 000, 000	35, 977, 400	99. 9
7. Agricultural products and provisions:					
Fishery products	76	396	26, 358, 000	23, 722, 200	90
Other agricultural products			[5] 150, 000, 000	[5] 82, 500, 000	55
8. Spirits, wines, and other beverages	9	50	59, 500, 000	57, 120, 000	96
9. Cotton manufactures	20	195	27, 000, 000	20, 250, 000	75
10. Flax, hemp, jute, and manufactures of	23	95	54, 767, 000	53, 671, 660	98
11. Wool and manufactures of	18	195	49, 244, 000	[6] 46, 781, 800	95
12. Silk manufactures	8	41	5, 000, 000	2, 600, 000	52
13. Manufactures of rayon or other synthetic textile	12	48	10, 216, 467	10, 216, 467	100
14. Papers and books	13	151	11, 500, 000	8, 050, 000	70
15. Sundries	50	676	[7] 133, 100, 000	[8] 106, 480, 000	80
Total	432	3, 391	899, 185, 467	710, 444, 527	79
Agricultural products (schedules 5–11)		982	493, 369, 000	[9] 407, 808, 060	80

[1] Includes related items on the Free List but subject to import-excise or processing taxes, as petroleum and products $29,000,000, and fats and oils about $29,000,000.

[2] Includes related items on the Free List but subject to an import-excise tax.

[3] Does not include imports of copper or other metals ordinarily dutiable, imported free under bond for smelting, refining, and export, or of duty-free products of Cuba and the Philippine Islands.

[4] Includes related items on the Free List, but subject to import-excise tax, also red cedar shingles which (subject to an absolute quota limitation after 1935) were duty-free before 1939, and dutiable only with respect to imports in excess of duty-free quota.

[5] Does not include imports of duty-free products of the Philippine Islands, amounting to $6,869,200.

[6] 57 percent.

Source: *List of products in which possible tariff concessions by the Government of the United States will be considered in reciprocal trade agreement negotiations with foreign countries*, and U. S. Tariff Commission *Trade Agreement Digests.*

U. S. Tariff Commission, January 1947.

TABLE 8.—*Number of tariff paragraphs and statistical items on the Free List under consideration in negotiation with the 18 countries of the nuclear group, showing the value of the imports of these items [1] in 1939 and their relation to total imports on the Free List*

[Approximate]

Schedule 10.—Free List	Total
Number of paragraphs in which there are items listed for negotiation	144
Number of statistical classes (as of 1946) listed for negotiation	[2] 540
Value of imports in 1939:	
Of total items on the Free List	$1,321,000,000
Of items on the Free List listed for consideration in negotiation with the 18 countries of the nuclear group	$1,182,000,000
Percent of total imports of items on the Free List	89

[1] Imports of these items represented about 85 percent of total imports of all free merchandise in 1939. Imports of items on the Free List of the Tariff Act of 1930 excluded the following:
(a) Commodities on the Free List subject to import-excise taxes.
(c) Red-cedar shingles (included with Schedule 4 (dutiable)).
(e) Commodities on the Dutiable List, free under Special Provisions. Where imports of these items are substantial in 1939, they have been included in the Dutiable List, unless otherwise noted.
[2] Excludes approximately 35 taxable items that have been included with dutiable imports.

Source: *List of products in which tariff concessions by the Government of the United States will be considered in reciprocal trade agreement negotiations with foreign countries;* and U. S. Tariff Commission *Trade Agreement Digests.*
U. S. Tariff Commission, February 1947.

TABLE 9.—*Number of rates reduced and number of rates bound by trade agreements and in effect on January 1, 1945* [1]

[Arranged according to the total number of rates reduced and bound]

Tariff schedule	Total number of rates reduced and bound	Number of rates reduced [2]	Number of rates bound [3]
7. Agricultural products and provisions	253	235	18
3. Metals and manufactures of	246	233	13
15. Sundries	194	187	7
1. Chemicals, oils, and paints	133	126	7
2. Earths, earthenware, and glassware	92	86	6
11. Wool and manufactures of	84	80	4
9. Cotton manufactures	55	54	1
10. Flax, hemp, jute, and manufactures of	47	44	3
14. Papers and books	47	44	3
4. Wood and manufactures of	28	28	----
12. Silk manufactures	23	22	----
8. Spirits, wines, and other beverages	17	17	----
Free List (taxable on importation)	7	7	----
6. Tobacco and manufactures of	10	10	----
5. Sugar, molasses, and manufactures of	9	9	----
13. Manufactures of rayon or other synthetic textile	8	8	----
Total	1,252	1,190	62
Agricultural Products (Schedules 6–11)	475	449	26

[1] United States Tariff Commission.
[2] Rates reduced in two or more agreements have been counted only once.
[3] Rates bound in two or more agreements have been counted only once. Rates reduced and subsequently bound, or bound and later reduced, have been counted only as reductions and have not been included in this column. Bindings of free entry are not included.

[Extract from the Reciprocal Trade Agreements Program, Library of Congress, Public Affairs Bulletin No. 33]

TABLE 10.—*Average reduction in rates of duty, imports subject to reduced rates, by tariff schedules, 1939* [1]

[Arranged according to the average reduction in rates—Based on reductions in effect on April 1, 1945]

Tariff schedule	Value of imports subject to reduced rates, 1939 [2]	Average reduction in rates
	Thousands	*Percent*
5. Sugar, molasses, and manufactures of	$83,990	50
8. Spirits, wines, and other beverages	55,521	50
Free List subject to excise tax on importation	29,430	50
4. Wood and manufactures of	14,374	48
7. Agricultural products and provisions	120,526	46
10. Flax, hemp, jute, and manufactures of	21,182	42
3. Metals and manufactures of	62,562	38
1. Chemicals, oils, and paints	25,149	34
14. Paper and books	6,187	35
2. Earths, earthenware, and glassware	6,134	35
15. Sundries	40,710	34
11. Wool and manufactures of	28,734	33
9. Cotton manufactures	9,095	30
6. Tobacco and manufactures of	55,030	24
12. Silk manufactures	2,095	22
13. Manufactures of rayon or other synthetic textile	718	18
Total subject to reduced rates [3]	552,236	43
Agricultural products (schedules 5-11)	355,878	[3] 46+

[1] U. S. Tariff Commission, *Effect of Trade Agreement Reductions on Tariff Levels in the United States*, p. 5. The table given there also includes the equivalent ad valorem preagreement and agreement rates for each schedule.

[2] Imports that actually entered at reduced agreement rates in 1939 together with those that would have entered at such rates had the reductions in effect on April 1, 1945, been applicable throughout the year 1939.

[3] Approx.

[Extract from the Reciprocal Trade Agreements Program, Library of Congress, Public Affairs Bulletin No. 33]

TABLE 11.—*Proportion of dutiable imports subject to reduced trade agreement rates of duty, by tariff schedules, 1939* [1]

Arranged according to proportion subject to reduced rates—Based on reductions in effect on April 1, 1945]

Tariff schedule	Total value of dutiable imports, 1939	Value of imports subject to reduced rates [2]	Proportion subject to reduced rates
	Thousands	*Thousands*	*Percent*
6. Tobacco and manufactures of	$55,990	$55,930	100
8. Spirits, wines, and other beverages	59,076	55,521	94
5. Sugar, molasses, and manufactures of	90,543	83,990	93
4. Wood and manufactures of	17,902	14,374	80
Free List items subject to excise tax on importation	36,051	29,430	77
3. Metals and manufactures of	89,728	62,562	70
7. Agricultural products and provisions	173,808	120,526	69
11. Wool and manufactures of	49,271	28,734	58
14. Papers and books	11,461	6,187	54
1. Chemicals, oils and paints	56,886	25,149	44
12. Silk manufactures	5,226	2,095	40
10. Flax, hemp, jute, and manufactures	54,765	21,182	39
15. Sundries	103,270	40,710	38
9. Cotton manufactures	27,284	9,095	27
2. Earths, earthenware, and glassware	25,369	6,134	24
13. Manufactures of rayon or other synthetic textile	10,210	718	7
Total	877,709	552,236	63
Agricultural Products (Schedules 5-11)	490,740	[3] 355,878	73

[1] U. S. Tariff Commission, *Effect of Trade Agreement Reductions on Tariff Levels in the United States*, p. 6.

[2] Imports that actually entered at reduced trade agreement rates in 1939 together with those that would have entered at such rates had the reductions in effect on April 1, 1945, been applicable throughout the year 1939.

[3] 65%.