

Havana charter

CHAPTER VI: INTER-GOVERNMENTAL COMMODITY AGREEMENTS

SECTION A - INTRODUCTORY CONSIDERATIONS

Article 55: Difficulties relating to Primary Commodities

The Members recognize that the conditions under which some primary commodities are produced, exchanged and consumed are such that international trade in these commodities may be affected by special difficulties such as the tendency towards persistent disequilibrium between production and consumption, the accumulation of burdensome stocks and pronounced fluctuations in prices. These special difficulties may have serious adverse effects on the interests of producers and consumers, as well as widespread repercussions jeopardizing the general policy of economic expansion. The Members recognize that such difficulties may, at times, necessitate special treatment of the international trade in such commodities through inter-governmental agreement.

Article 56: Primary and Related Commodities

1. For the purposes of this Charter, the term "primary commodity" means any product of farm, forest or fishery or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade.

2. The term shall also, for the purposes of this Chapter, cover a group of commodities, of which one is a primary commodity as defined in paragraph 1 and the others are commodities, which are so closely related, as regards conditions of production or utilization, to the other commodities in the group, that it is appropriate to deal with them in a single agreement.

3. If, in exceptional circumstances, the Organization finds that the conditions set forth in Article 62 exist in the case of a commodity which does not fall precisely under paragraphs 1 or 2 of this Article, the Organization may decide that the provisions of this Chapter, together with any other requirements it may establish, shall apply to inter-governmental agreements regarding that commodity.

Article 57: Objectives of Inter-governmental Commodity Agreements

The Members recognize that inter-governmental commodity agreements are appropriate for the achievement of the following objectives:

- (a) to prevent or alleviate the serious economic difficulties which may arise when adjustments between production and consumption cannot be effected by normal market forces alone 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 have as their purpose economic adjustments designed to promote the expansion of consumption or a shift of resources and man-power out of over-expanded industries into new and productive occupations, including as far as possible in appropriate cases, the development of secondary industries based upon domestic production of primary commodities;
- (c) to prevent or moderate pronounced fluctuations in the price of a primary commodity with a view to achieving a reasonable degree of stability on a basis of such prices as are fair to consumers and provide a reasonable return to producers, having regard to the desirability of securing long-term equilibrium between the forces of supply and demand;
- (d) to maintain and develop the natural resources of the world and protect them from unnecessary exhaustion;
- (e) to provide for the expansion of the production of a primary commodity where this can be accomplished with advantage to consumers and producers, including in appropriate cases the distribution of basic foods at special prices;
- (f) to assure the equitable distribution of a primary commodity in short supply.

SECTION B - INTER-GOVERNMENTAL COMMODITY AGREEMENTS IN GENERAL

Article 58: Commodity Studies

1. Any Member which considers itself substantially interested in the production or consumption of, or trade in, a particular primary commodity, and which considers that international trade in that commodity is, or is likely to be, affected by special difficulties, shall be entitled to ask that a study of the commodity be made.

2. Unless the Organization decides that the case put forward in support of the request does not warrant such action, it shall promptly invite each Member to appoint representatives to a study group for the commodity, if the Member considers itself substantially interested in the production or consumption of, or trade in, the commodity. Non-Members may also be invited.

3. The study group shall promptly investigate the production, consumption and trade situation in regard to the commodity, and shall report to the participating governments and to the Organization its findings and its recommendations as to how best to deal with any special difficulties which exist or may be expected to arise. The Organization shall promptly transmit to the Members these findings and recommendations.

Article 59: Commodity Conferences

1. The Organization shall promptly convene an inter-governmental conference to discuss measures designed to meet the special difficulties which exist or are expected to arise concerning a particular primary commodity:

- (a) on the basis of the recommendations of a study group, or
- (b) at the request of Members whose interests represent a significant part of world production or consumption of, or trade in, that commodity, or
- (c) at the request of Members which consider that their economies are dependent to an important extent on that commodity, unless the Organization considers that no useful purpose could be achieved by convening the conference, or
- (d) on its own initiative, on the basis of information agreed to be adequate by the Members substantially interested in the production or consumption of, or trade in, that commodity.

2. Each Member which considers itself substantially interested in the production or consumption of, or trade in, the commodity concerned, shall be invited to participate in such a conference. Non-Members may also be invited to participate.

Article 60: General Principles governing Commodity Agreements

1. The Members shall observe the following principles in the conclusion and operation of all types of inter-governmental commodity agreements:

- (a) Such agreements shall be open to participation, initially by any Member on terms no less favourable than those accorded to any other country, and thereafter in accordance with such procedure and upon such terms as may be established in the agreement, subject to approval by the Organization.
- (b) Non-Members may be invited by the Organization to participate in such agreements and the provisions of sub-paragraph (a) applying to Members shall also apply to any non-Member so invited.
- (c) Under such agreements there shall be equitable treatment as between participating countries and non-participating Members, and the treatment accorded by participating countries to non-participating Members shall be no less favourable than that accorded to any non-participating non-Member, due consideration being given in each case to policies adopted by non-participants in relation to obligations assumed and advantages conferred under the agreement.
- (d) Such agreements 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.
- (e) Full publicity shall be given to any inter-governmental commodity agreement 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 agreement and, periodically, to the operation of the agreement.

2. The Members, including Members not parties to a particular commodity agreement, shall give favourable consideration to any recommendation made under the agreement for expanding consumption of the commodity in question.

Article 61: Types of Agreements

1. For the purposes of this Chapter, there are two types of inter-governmental commodity agreements:

- (a) commodity control agreements as deemed in this Article; and
- (b) other inter-governmental commodity agreements.

2. Subject to the provisions of paragraph 5, a commodity control agreement is an inter-governmental agreement which involves:

- (a) the regulation of production or the quantitative control of exports or imports of a primary commodity and which has the purpose or might have the effect of reducing, or preventing an increase in, the production of, or trade in, that commodity; or
- (b) the regulation of prices.

3. The Organization shall, at the request of a Member, a study group or a commodity conference, decide whether an existing or proposed inter-governmental agreement is a commodity control agreement within the meaning of paragraph 2.

4. (a) Commodity control agreements shall be subject to all the provisions of this Chapter.
- (b) Other Inter-governmental commodity agreements shall be subject to the provisions of this Chapter other than those of Section C. If, however, the Organization decides that an agreement which involves the regulation of production or the quantitative control of exports or imports is not a commodity control agreement within the meaning of paragraph 2, it shall prescribe the provisions of Section C, if any, to which that agreement shall conform.

5. An existing or proposed inter-governmental agreement the purpose of which is to secure the coordinated expansion of aggregate world production and consumption of a primary commodity may be treated by the Organization as not being a commodity control agreement, even though the agreement provides for the future application of price provisions; provided that

- (a) at the time the agreement is entered into, a commodity conference finds that the conditions contemplated are in accordance with the provisions of Article 62, and
- (b) from the date on which the price provisions become operative, the agreement shall conform to all the provisions of Section C, except that no further finding will be required under Article 62.

6. Members shall enter into any new commodity control agreement only through a conference called in accordance with the provisions of Article 59 and after an appropriate

finding has been made under Article 62. If, in an exceptional case, there has been unreasonable delay in the convening or in the proceedings of the study group or of the commodity conference, Members which consider themselves substantially interested in the production or consumption of, or trade in, a particular primary commodity, may proceed by direct negotiation to the conclusion of an agreement, provided that the situation is one contemplated in Article 62 (a) or (b) and that the agreement conforms to the other provisions of this Chapter.

SECTION C - INTER-GOVERNMENTAL COMMODITY CONTROL AGREEMENTS

Article 62: Circumstances Governing the use of Commodity Control Agreements

The Members agree that commodity control agreements may be entered into only when a finding has been made through a commodity conference or through the Organization by consultation and general agreement among Members substantially interested in the commodity, that:

- (a) a burdensome surplus of a primary commodity has developed or is expected to develop, which, in the absence of specific governmental action, would cause serious hardship to producers among whom are small producers who account for a substantial portion of the total output, and that these conditions could not be corrected by normal market forces in time to prevent such hardship, because, characteristically in the case of the primary commodity concerned, a substantial reduction in price does not readily lead to a significant increase in consumption or to a significant decrease in production; or
- (b) widespread unemployment or under-employment in connection with a primary commodity, arising out of difficulties of the kind referred to in Article 55, has developed or is expected to develop, which, in the absence of specific governmental action, would not be corrected by normal market forces in time to prevent widespread and undue hardship to workers because, characteristically in the case of the industry concerned, a substantial reduction in price does not steadily lead to a significant increase in consumption but to a 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.

Article 63: Additional Principles Governing Commodity Control Agreements

The Members shall observe the following principles governing the conclusion and operation of commodity control agreements, in addition to those stated in Article 60:

- (a) Such agreements shall be designed to assure the availability of supplies adequate at all times for world demand at prices which are in keeping with the provisions of Article 57(c), and, when practicable, shall provide for measures designed to expand world consumption of the commodity.

- (b) Under such agreements, participating countries which are mainly interested in imports of the commodity concerned shall, in decisions on substantive matters, have together a number of votes equal to that of those mainly interested in obtaining export markets for the commodity. Any participating country, which is interested in the commodity but which does not fall precisely under either of the above classes, shall have an appropriate voice within such classes.
- (c) Such agreements shall make appropriate provision to afford increasing opportunities for satisfying national consumption and world market requirements from sources from which such requirements can be supplied in the most effective and economic manner, due regard being had to the need for preventing serious economic and social dislocation and to the position of producing areas suffering from abnormal disabilities.
- (d) Participating countries shall formulate and adopt programmes of internal economic adjustment believed to be adequate to ensure as much progress as practicable within the duration of the agreement towards solution of the commodity problem involved.

Article 64: Administration of Commodity Control Agreements

1. Each commodity control agreement shall provide for the establishment of a governing body, herein referred to as a Commodity Council, which shall operate in conformity with the provisions of this Article.
2. Each participating country shall be entitled to have one representative on the Commodity Council. The voting power of the representatives shall be determined in conformity with the provisions of Article 63 (b).
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 appoint a non-voting chairman who, if the Council so requests, may 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. The Organization may at any time require their amendment if it considers that they are inconsistent with the provisions of this Chapter.
7. Each Commodity Council shall make periodic reports to the Organization on the operation of the agreement which it administers. It shall also make such special reports as the Organization may require 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.
9. When an agreement is terminated, the Organization shall take charge of the archives and statistical material of the Commodity Council.

Article 65: Initial Term, Renewal and Review of Commodity Control Agreements

1. Commodity control agreements shall be concluded for a period of not more than five years. Any renewal of a commodity control agreement, including agreements referred to in paragraph 1 of Article 68, shall be for a period not exceeding five years. The provisions of such renewed agreements shall conform to the provisions of this Chapter.
2. The Organization shall prepare and publish periodically, at intervals not greater than three years, a review of the operation of each agreement in the light of the principles set forth in this Chapter.
3. Each commodity control agreement shall provide that, if the Organization finds that its operation has failed substantially to conform to the principles laid down in this Chapter, participating countries shall either revise the agreement to conform to the principles or terminate it.
4. Commodity control agreements shall include provisions relating to withdrawal of any party.

Article 66: Settlement of Disputes

Each commodity control agreement shall provide that:

- (a) any question or difference concerning the interpretation of the provisions of the agreement or arising out of its operation shall be discussed originally by the Commodity Council; and
- (b) if the question or difference cannot be resolved by the Council in accordance with the terms of the agreement, it shall be referred by the Council to the Organization, which shall apply the procedure set forth in Chapter VIII with appropriate adjustments to cover the case of non-Members.

SECTION D - MISCELLANEOUS PROVISIONS

Article 67: Relations with Inter-governmental Organizations

With the object of ensuring appropriate co-operation in matters relating to inter-governmental commodity agreements, any inter-governmental organization which is deemed to be competent by the Organization, such as the Food and Agriculture Organization, shall be entitled:

- (a) to attend any study group or commodity conference;
- (b) to ask that a study of a primary commodity be made;
- (c) to submit to the Organization any relevant study of a primary commodity, and to recommend to the Organization that further study of the commodity be made or that a commodity conference be convened.

Article 68: Obligations of Members regarding Existing and Proposed Commodity Agreements

1. Members shall transmit to the Organization the full text of each inter-governmental commodity agreement in which they are participating at the time they become Members of the Organization, together with appropriate information regarding the formulation, provisions and operation of any such agreement. If, after review, the Organization finds that any such agreement is inconsistent with the provisions of this Chapter, it shall communicate such finding to the Members concerned in order to secure promptly the adjustment of the agreement to bring it into conformity with the provisions of this Chapter.

2. Members shall transmit to the Organization appropriate information regarding any negotiations for the conclusion of an inter-governmental commodity agreement in which they are participating at the time they become Members of the Organization. If, after review, the Organization finds that any such negotiations are inconsistent with the provisions of this Chapter, it shall communicate such finding to the Members concerned in order to secure prompt action with regard to their participation in such negotiations. The Organization may waive the requirement of a study group or a commodity conference, if it finds it unnecessary in the light of the negotiations.

Article 69: Territorial Application

For the purposes of this Chapter, the terms "Member" and "non-Member" shall include the dependent territories of a Member and non-Member of the Organization respectively. 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 territories within the group or, where the Member or non-Member so wishes, separate representation for the territories mainly interested in exportation and separate representation for the territories mainly interested in importation.

Article 70: Exceptions to Chapter VI

1. The provisions of this Chapter shall not apply:

(a) to any bilateral inter-governmental agreement relating to the purchase and sale of a commodity falling under Section D of Chapter IV;

(b) to any inter-governmental commodity agreement involving no more than one exporting country and no more than one importing country and not covered by sub-paragraph (a) above; *Provided* that if, upon complaint by a non-participating Member, the Organization finds that the interests of that Member are seriously prejudiced by the agreement, the agreement shall become subject to such provisions of this Chapter as the Organization may prescribe;

(c) to those provisions of any inter-governmental commodity agreement which are necessary for the protection of public morals or of human, animal or plant life or health, provided that such agreement is not used to accomplish results inconsistent with the objectives of Chapter V or Chapter VI;

(d) any inter-governmental agreement relating solely to the conservation of fisheries resources, migratory birds or wild animals, provided that such agreement is not used to accomplish results inconsistent with the objectives of this Chapter or the purpose and objectives set forth in Article 1 and is given full publicity in accordance with the provisions of paragraph 1 (e) of Article 60; if the Organization finds, upon complaint by a non-participating Member, that the interests of that Member are seriously prejudiced by the agreement, the agreement shall become subject to such provisions of this Chapter as the Organization may prescribe.

2. The provisions of Articles 58 and 59 and of Section C of this Chapter shall not apply to inter-governmental commodity agreements found by the Organization to relate solely to the equitable distribution of commodities in short supply.

3. The provisions of Section C of this Chapter shall not apply to commodity control agreements found by the Organization to relate solely to the conservation of exhaustible natural resources.