

DRAFT CHARTER

BURMA: PROPOSED AMENDMENT

Article 4.

Substitute the following for the existing text.

Fair Labour Standards

Each Member, recognizing that all countries have a common interest in steadily rising labour standards, shall take whatever action may be appropriate and feasible to eliminate sub-standard conditions of labour and to achieve and maintain fair labour standards related to productivity. Members which are also Members of the International Labour Organization shall co-operate with that organization in giving effect to this undertaking.

Reasons

Measures to eliminate substandard conditions of labour may not necessarily achieve fair labour standards related to productivity; hence it should be the obligation of all Members not only to profess a faith but also take positive measures to achieve fair labour standards related to productivity. An ideal "steadily rising labour standards" is better than a fixed level of "fair labour standards related to productivity".

Article 13.

Substitute the following for paragraphs 2, 3, 4 and 5.

2. (a) If a Member in the interest of its programme of economic development or reconstruction considers it desirable to adopt any non-discriminatory measure which would conflict with any provision of Chapter IV, such applicant Member 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.
- (b) The Organization shall promptly examine such statement and if it is established that such measure is unlikely to be more restrictive of international trade than any other practicable reasonable measure permitted under this Charter which could be imposed without undue difficulty and that it is the one most suitable for the purpose having regard to the economies of the  
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industry or the branch of agriculture concerned and to the current economic condition of the applicant Member, the Organization shall concur in such measure and grant such release as may be required to make such measure effective.

(c) The Organization shall also promptly transmit the statement of the applicant Member to all other Members stating the probable date on which a decision under paragraph 2 (b) of this Article will be reached. The Organization shall advise the applicant Member of the probable date.

(d) Any Member which considers that its trade would be substantially affected by the proposed measure shall transmit its views to the Organization before the date set by the Organization under paragraph 2 (c) of this Article. The Organization shall not entertain any view received after this date.

(e) Unless the Organization concurs in the proposed measure under paragraph 2 (b) of this Article, the Organization shall examine the proposed measure having regard to the provisions of this Charter, to the considerations presented by the applicant Member, and its stage of economic development or reconstruction, to the views presented by Members which may be substantially affected and to the effect which the proposed measure with or without modification is likely to have on international trade.

(f) If as a result of its examination pursuant to paragraph 2 (e) of this Article, the Organization concurs in the proposed measure with or without modification, which would be inconsistent with any provision of Chapter IV, the Organization may release the applicant Member from any obligation under such provision, subject to such limitations as the Organization may impose.

(g) If the applicant Member does not receive a final reply under paragraph 2 (b) or paragraph 2 (f) of this Article by the date set forth by the Organization under paragraph 2 (c) of this Article, the applicant Member may, after communicating with the Organization, institute the proposed measure after the expiration of a further thirty days from such date.

3. (a) If a Member in the interest of its programme of economic development or reconstruction considers it desirable to adopt any non-discriminatory measure which would conflict with any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, such applicant Member shall so notify the Organization and shall transmit to the

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Organization a written statement of the considerations in support of the adoption of the proposed measure.

(b) The Organization shall promptly transmit such statement to all other Members, and any Member which considers that its trade would be substantially affected by the proposed measure shall transmit its views to the Organization within such period as may be prescribed by the Organization.

(c) Upon receipt of the views of the Members under paragraph 3 (b) of this Article the Organization shall determine which are the Members whose trade will be substantially affected by the proposed measure. The Organization shall then sponsor and assist in negotiations between the applicant Member and those other Members with a view to obtaining substantial agreement. The Organization shall establish and communicate to the Members concerned a time schedule for such negotiations.

(d) Members shall commence the negotiations provided for in paragraph 3 (c) of this Article within such period as the Organization may prescribe and shall thereafter proceed continuously with such negotiations with a view to reaching substantial agreement in accordance with the time schedule laid down by the Organization.

(e) Upon substantial agreement being reached, the Organization may release the applicant Member from the obligation referred to in paragraph 3 (a) of this Article or from any other relevant obligation under this Charter, subject to such limitations as may have been agreed upon in the negotiations between the Members concerned.

(f) If on the expiration of the time schedule laid down by the Organization, no substantial agreement is reached between the Members concerned the Organization shall examine the proposed measure having regard to the provisions of this Charter, to the considerations presented by the applicant Member and its stage of economic development or reconstruction, to the views presented by Members which may be substantially affected and to the effect which the proposed measure, with or without modification, is likely to have on international trade. If as a result of such examination the Organization concurs in the proposed measure, with or without modification, the Organization may release the applicant Member from the obligation referred to in paragraph 3 (a) of this Article or from any other relevant obligation under this Charter, subject

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to such limitations as the Organization may impose.

4. If in anticipation of the concurrence of the Organization in the adoption of a measure concerning which notice has been given under paragraphs 2 or 3 of this Article, there should be an increase or threatened increase in the importations of the product or products concerned, including products which can be directly substituted therefor, so substantial as to jeopardize the plans of the applicant Member for the establishment, development or reconstruction of the industry or industries concerned, or branches of agriculture concerned, and if no preventive measures consistent with this Charter can be found which seem likely to prove effective, the applicant Member may, after informing, and when practicable consulting with the Organization, adopt such other measures as the situation may require pending a determination by the Organization, provided that such measures do not reduce imports below the level obtaining in the most recent representative period preceding the date on which the Member's original notification was made under paragraphs 2 and 3 of this Article.

5. If a proposed measure is in conflict with any provision of Chapter IV and with any obligation which the applicant Member has assumed through negotiations with any other Member or Members, pursuant to Chapter IV, the procedure given in paragraph 3 of this Article shall prevail.

#### Reasons

The amendment is designed to achieve the following purposes:

1. To distinguish clearly the two different procedures that will prevail when

(i) a proposed measure is in conflict with any provision of Chapter IV of the Charter;

(ii) a proposed measure is in conflict with any obligation an applicant Member may have assumed through negotiations with other Members pursuant to Chapter IV of the Charter.

2. In cases where a proposed measure is in conflict with any provision of Chapter IV of the Charter, but which can be established without difficulty to be not more restrictive of international trade than any other practicable and reasonable measure permitted under the Charter to avoid the delay that would have been caused by unnecessary consultation with the Members.

3. In cases where a proposed measure is in conflict with any obligation an applicant Member may have assumed through negotiations with other Members pursuant to Chapter IV of the Charter to enable the applicant Member to reach agreement with other Members whose trade  
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would be likely to be substantially affected by the proposed measure before the Organization pronounces any judgment on the proposed measure. The amendment also provides for a contingency when negotiations between Members may fail.

4. To enable applicant Members to take the emergency action envisaged in 4 (c) of the Article under both procedures.

5. To fix a more expeditious time-table.

#### Article 68

Delete the present text and substitute the following.

##### Membership

1. The original Members of the Organization shall be those states and separate customs territories invited to the United Nations Conference on Trade and Employment whose Governments accept this Charter by ..... 194.. in accordance with paragraph 1 of Article 98, or, if this Charter shall not have entered into force by ..... 194.., those states and separate customs territories whose Governments agree to bring this Charter into force in accordance with the proviso in paragraph 2 of Article 98.

2. Any other State whose membership has been approved by the Conference shall become a Member of the Organization upon its acceptance, in accordance with paragraph 1 of Article 98 of this Charter, as amended up to the date of such acceptance.

3. Any separate customs territory not invited to the United Nations Conference on Trade and Employment, proposed by the competent Member having responsibility for the formal conduct of its diplomatic relations and which is autonomous in the conduct of its external commercial relations and of the other matters provided for by this Charter and whose admission is approved by the Conference shall become a Member, upon acceptance of the Charter on its behalf by the competent Member in accordance with paragraph 2 of Article 99, or, in the case of a territory in respect of which the Charter has been accepted under paragraph 1 of Article 99, upon its becoming thus autonomous.

4. The Conference shall determine the conditions upon which membership rights and obligations shall be extended to Trust Territories administered by the United Nations and to the Free Territory of Trieste.

#### Article 98

In paragraph 1, insert the words "and each separate customs territory invited to the United Nations Conference on Trade and Employment" between the words "State" and "accepting".

/Reasons

Reasons

The separate customs territories which are present at this Conference are signatories to the Final Act of the General Agreement on Tariffs and Trade and if they apply the Agreement provisionally they will be represented at meetings of CONTRACTING PARTIES. (Articles XXV and XXXII of General Agreement). However according to Articles 68 and 81 of the Draft Charter these separate customs territories will not be on Tariff Committee. There is still another confusion in paragraph 2 of Article 98 when in the proviso it is stated that any of the governments applying the General Agreement on Tariffs and Trade ....., may, upon conditions to be agreed between them, bring this Charter into force. Such governments may include any of the separate customs territories which have signed the Final Act.

The separate customs territories which are signatories to the Final Act of the General Agreement have been invited to this Conference on the strength of their participation in trade negotiations in Geneva. They are present at this Conference independently of the metropolitan country. The metropolitan country is not responsible for their action in this Conference. Hence it is only equitable that these separate customs territories should become Members of the Organization.

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