Legal and Drafting Committee

31 January 1955

ITEMS REFERRED FROM WORKING PARTY IV

The following changes to Articles have been agreed in principle by Working Party IV and are herewith referred to the Legal and Drafting Committee for consideration from a drafting point of view.

Article XXVI - Acceptance, entry into force and registration

1. The present Agreement shall bear the date of the signature of the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment and shall be open to acceptance by any government signatory to the Final Act.

2. This Agreement shall be open to acceptance by any government which on 1 January 1955 was applying the provisions of this Agreement under Article XXIII or pursuant to the Protocol of Provisional Application.

3. This Agreement shall enter into force as among the governments which have accepted it, on the thirtieth day following the day on which instruments of acceptance have been deposited with the Secretary-General of the United Nations on behalf of governments signatory to the Final Act which on 1 January 1955 were contracting parties as defined in Article XXII; the territories of which account for 85 per centum of the total external trade of the territories of the signatories to the Final Act adopted at the conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, namely in Annex H. Such percentage shall be determined in accordance with the table set forth in Annex H. The instrument of acceptance of each other government signatory to the Final Act which was a contracting party on 1 January 1955 shall take effect on the thirtieth day following the day on which such instrument is deposited.

Spec/69/55
Article XXX - Amendments

1. Except where provision for modification is made elsewhere in this Agreement, amendments to the provisions of Part I of this Agreement or to the provisions of Article XXIX or of this Article shall become effective upon acceptance the thirtieth day following the day on which they shall have been accepted by all the contracting parties, and other amendments to this Agreement shall become effective, in respect of those contracting parties which accept them, upon acceptance the thirtieth day following the day on which they shall have been accepted by two-thirds of the contracting parties and thereafter for each other contracting party upon acceptance the thirtieth day following the day on which they shall have been accepted by it.

2. No change.

3. A withdrawal from the Agreement under this Article shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Secretary-General of the United Nations.

4. A contracting party which fails to accept an amendment in the circumstances decided in paragraph 2 above shall cease to be a contracting party upon the expiry of the period referred to in that paragraph, or upon the sixtieth day following the day upon which the Organization shall have decided to withhold its consent to the contracting party's remaining a contracting party, whichever date shall be the later.

5. Notwithstanding the provisions of Paragraph 1 above, the text of the schedules annexed to this Agreement may be amended by a decision of the CONTRACTING PARTIES in order to record rectifications of a purely formal character or modifications resulting from action taken under Article II, Paragraph 6, Article XVIII, Article XXVII or Article XXVIII as well as from supplementary negotiations conducted between two or more contracting parties or from negotiations authorized by the CONTRACTING PARTIES. The decisions making effective these rectifications or modifications, shall only be taken after reasonable time is provided to all contracting parties.

Notes

General. The Legal and Drafting Committee should consider whether this Article should be amended so as to contain provisions regarding the majority required for the adoption of amendments under this Article, as suggested in its report W.9/151.
1. This language has been prepared to cover the point raised in the Working Party concerning forced withdrawal.

2. The Legal and Drafting Committee is requested by the Working Party to review the language in order to ensure that the provision is strict enough with regard to modifications.

**ALTERNATIVE ARTICLE XXX**

New Draft Proposed by the Japanese Delegation

1. Any amendment to this Charter \(\text{as well as rectification of schedule}\) which does not alter the obligations of contracting parties shall become effective upon approval by the CONTRACTING PARTIES by a majority comprising two-thirds of the contracting parties.

2. Any amendment which alters the obligations of contracting parties, except where provision for modification is made elsewhere in this Agreement, shall be submitted for acceptance after having been approved by a majority of two-thirds of the votes cast and shall become effective:

   (a) as to the amendment to the provisions of Part I of this Agreement or to the provisions of this Article, on the thirtieth day following the day on which it shall have been accepted by all the contracting parties,

   (b) as to the amendment to other provisions, on the thirtieth day following the day on which it shall have been accepted by two-thirds of the contracting parties in respect of those contracting parties which accept it, and thereafter for each other contracting party on the thirtieth day following the day of acceptance by it.

3. Any contracting party accepting an amendment to this Agreement in accordance of the preceding paragraph shall deposit an instrument of acceptance with the Director-General of the Organization within such period as the CONTRACTING PARTIES may specify.

4. The CONTRACTING PARTIES may decide that any amendment made effective under paragraph 2(b) of this Article is of such a nature that any contracting party which has not accepted it within a period specified by the CONTRACTING PARTIES shall be free to withdraw from this Agreement, or to remain a contracting party with the consent of the CONTRACTING PARTIES. Such contracting party shall cease to be a contracting party upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General of the Organization or upon the expiration of sixty days from the
expiration of the period specified by the CONTRACTING PARTIES or from the day upon which the CONTRACTING PARTIES shall have decided to refuse the contracting party to remain so, whichever shall be later.

Article XXXIII - Accession

A government not party to this Agreement, or a government acting on behalf of a separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement, may accede to this Agreement, on its own behalf or on behalf of that territory, on terms to be agreed between such government and the CONTRACTING PARTIES, and provided that such government shall accept at the time of accession the Agreement on the International Organization for Trade Co-operation. Decisions of the CONTRACTING PARTIES under this paragraph shall be taken by a majority comprising two-thirds of the contracting parties.

Article XXXV - Non-Application of the Agreement between particular Contracting Parties

Paragraph 2

2. The CONTRACTING PARTIES may at any time before the Havana Charter enters into force review the operation of this Article in particular cases at the request of any contracting party and make appropriate recommendations.

Other matters

The Legal and Drafting Committee is requested to consider a question raised by the Japanese delegation as to whether notification of action taken under the Agreement should, in cases where it is now provided that it should be made to the Secretary-General of the United Nations, more properly be made to the Secretary-General of the Organization. (Such references occur in Articles XXIII:2, XXVI, XXX and XXXI.)

It is suggested that the Legal and Drafting Committee consider from a purely drafting point of view whether the Articles might be arranged in a more functional order (Scandinavian proposals, L/273, etc.) and whether Arabic rather than Roman figures should not be used for the Articles (also Scandinavian proposals).