

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

W.9/100

15 December 1954

Special Distribution

CONTRACTING PARTIES

Ninth Session

Review Working Party IV on
Organizational and
Functional Questions

REPORT BY THE CHAIRMAN OF SUB-GROUP A ON ORGANIZATIONAL QUESTIONS

A.

The sub-group thought that it could most usefully assist the Working Party if it attempted to produce a draft of as many organizational provisions as possible, bearing in mind that certain items were still under consideration by the Working Party. In particular the group tried to make a synthesis of the specific proposals by France (L/290), Norway (L/276) and the United States (L/292), taking into account the discussions in the Working Party.

A draft agreement of organizational provisions is annexed to this report. Clearly this draft is not binding on the countries which participated in the group, but it does represent, apart from the specific reservations which are contained in the footnotes, the provisions on which broad agreement was reached at the group level.

I should like to call the attention of the Working Party, in particular, to the subjects on which there was considerable discussion in the sub-group.

1. The permanent subsidiary body

Following what appeared to be the general concensus of opinion in the Working Party, the draft agreement includes provisions for a permanent subsidiary body. There was considerable discussion on the name for this body, and the preponderant opinion favoured "Executive Committee". (In accordance with that view the chief administrative officer has been entitled "Secretary General").

The group felt that if provision was to be made specifically for establishing a permanent subsidiary body, the statutes should prescribe the criteria to be followed in its constitution. Most members of the group felt that the statutes should prescribe the number of members of the Executive Committee in the light of this criteria, and Article 9 provides for sixteen. The United Kingdom considered that the question of the composition and size of the Executive Committee should be left to be determined by the Organization itself.

All members of the group agreed that it was important to have an effective body, and that the number of members should therefore be restricted, but that a

paramount consideration in the composition of the Executive Committee should be its representative character. The article proposed in the draft agreement attempts to combine the need for efficiency and representation.

Some members felt that, in the event that the membership of the Organization increased substantially, or included countries with economic systems different to those of the present CONTRACTING PARTIES, it might be necessary to provide for a larger Executive Committee. It was considered that a specific provision covering this eventuality was not necessary as it could be met by an amendment to the statutes of the Organization.

Article 12 of the draft agreement provides for the participation of non-members of the Executive Committee in the discussion of any matter of particular concern to them. The group considered that this article should be interpreted liberally.

2. Voting

Two members of the group felt that delegation of powers by the Assembly should be subject to a two-thirds majority vote (see page 5, footnote). The other members considered that it was in practice unlikely that the Assembly would agree to such delegation unless at least two thirds of the members were in fact in favour of it, and that it was unnecessary to insert an express limitation to this effect in the Agreement.

3. Relation with the United Nations

In the course of the discussion of relations with other organizations, the Executive Secretary explained the views put forward informally by the Secretary-General of the United Nations, who felt that a closer relationship than specialized agency status was desirable, in view of the importance of the field of international trade to the work of the United Nations, and hoped that the possibility of complete integration into the United Nations as a subordinate body would be carefully considered by the CONTRACTING PARTIES. The Secretary-General thought that a relationship similar to the Bank and Fund relationship with United Nations would not be altogether appropriate, and indicated that unless the GATT were to be made in some way a part of the United Nations machinery, the proposal to guarantee it broad powers in the field of international trade might give rise to some difficulty. He questioned whether the Economic and Social Council could be expected to turn over to another agency part of its own broad Charter responsibilities in the economic field and referred to activities with which the Council and the United Nations secretariat had long been concerned, particularly work in international trade statistics, work relating to commodity trade and restrictive business practices, and trade promotional work carried on under the auspices of the regional economic commissions.

The group felt unable to share these views of the Secretary-General, and in the light of them felt, indeed, that the CONTRACTING PARTIES might wish to adopt a somewhat more cautious attitude to the suggestion that the Organization aim at a specialized agency relationship. It was considered, however, that Article 21 in the present permissive form, making such relationship clearly subject to an agreement to be approved by the Assembly, adequately safeguarded the position of the Organization.

4. Relations with non-governmental organizations

The group considered that relations with non-governmental organizations could, of course, as in the past, continue to be dealt with on an ad hoc basis. From a presentational view, however, it might be desirable to indicate clearly in the statutes that the Organization would be prepared to consult with appropriate and responsible non-governmental organizations interested in the field of international trade.

B.

Articles relating to the establishment of the Organization, membership, functions, amendments, entry into force, etc., are still under consideration by the sub-group. I should like to call the attention of the Working Party to a report by the three Rapporteurs of the group on the question of the establishment of an organization and the transfer of the powers of the CONTRACTING PARTIES to it (W.9/93).

The United States delegation has proposed (L/292) the inclusion in the Protocol of an article on nullification and impairment (adapted from Article XXIII, paragraph 2), an article on accession, and one on compulsory withdrawal. The sub-group requests guidance from the Working Party on the first two of these before it proceeds with its consideration. The United States delegation has indicated that it might wish to change the proposal for an article on compulsory withdrawal in the light of the provisions that may be drawn up for entry into force and membership.

ANNEX

DRAFT AGREEMENT ON ORGANIZATIONAL PROVISIONS

PART I - GENERAL

Article 1. Establishment¹

Article 2. Membership¹

Article 3. Functions¹

PART II - STRUCTURE OF THE ORGANIZATION

Article 4

The Organization shall consist of an Assembly and an Executive Committee. There shall also be a Secretary-General and a Staff.

The Assembly

Article 5

The Assembly shall consist of the members of the Organization.

Article 6

It shall be the responsibility of the Assembly to carry out the functions of the Organization as set forth in Article 3.

Article 7

The Assembly shall meet in regular annual session and in such special sessions as may be convened in accordance with the rules of procedure.

Article 8

The Assembly shall establish its own rules of procedure and the rules of procedure of the Executive Committee and of other subsidiary bodies.

¹ These Articles are still under consideration by the sub-group and, accordingly, no text is proposed.

The Executive Committee

Article 9¹

The Executive Committee shall consist of sixteen members of the Organization elected by the Assembly.

Article 10

- (a) The Executive Committee shall include the members of chief economic importance, in the determination of which particular regard shall be paid to their shares in international trade.
- (b) The Executive Committee shall be representative of the broad geographical areas to which the members belong.
- (c) The Executive Committee shall be representative of different degrees of economic development and different economic interests.

Article 11²

The Executive Committee shall exercise the powers and perform the duties assigned to it by the Assembly.

Article 12

Any member of the Organization which is not a member of the Executive Committee shall be invited to participate, without the right to vote, in the discussion by the Executive Committee of any matter of particular concern to it.

1

The United Kingdom makes a specific reservation to this entire provision on the ground that this is a matter that should properly be left to the Organization itself to decide. If it were, nevertheless, decided to make provision for this in the Agreement, the United Kingdom also reserves its position as to the number of members.

2

Chile and the United States specifically reserved their position on this Article, to the effect that any assignment of powers from the Assembly should be by a two-thirds vote.

The Secretary General
and the Staff

Article 13

The Assembly shall appoint a Secretary-General as chief administrative officer of the Organization. The powers, duties, conditions of service and term of office of the Secretary-General shall conform to regulations approved by the Assembly.

Article 14

The Secretary-General shall appoint members of the staff and shall fix their duties and conditions of service in accordance with regulations approved by the Assembly.

Article 15

The Secretary-General or his representative shall be entitled to participate, without the right to vote, in all meetings of the Assembly and subsidiary bodies of the Organization.

Article 16

The Secretary-General and the members of the staff shall have the status of international officials. In carrying out their duties they shall neither solicit nor accept instructions from any government or any authority outside the Organization. They shall refrain from any act incompatible with their position as international officials. Member states shall respect the international status of these officials and shall not seek to influence them in the carrying out of their duties.

Article 17

The selection of the members of the staff shall as far as possible be made on a wide geographical basis and with due regard to the various types of economy represented by Member countries. The paramount consideration in the selection of candidates and in determining the conditions of service of the staff shall be the necessity of securing the highest standards of efficiency, competence, impartiality and integrity.

V o t i n g

Article 18

At meetings of the Assembly each member of the Organization shall be entitled to have one vote, and, except as otherwise provided for in the General Agreement or in this Agreement, decisions of the Assembly shall be taken by a majority of the votes cast.

Members of the Council and other subsidiary bodies shall have one vote therein.

In the exercise by the Organization of any function under the General Agreement, unless such agreement provides otherwise, only Members which are also parties to such agreement shall be counted thereunder in determining the fulfilment of the respective voting requirements.¹

PART III - BUDGET AND ADMINISTRATIVE PROVISIONS

B u d g e t

Article 19

The Secretary-General shall present to the Assembly the annual budget estimates and financial statements of the Organization. The Assembly shall approve the accounts and the budget. It shall apportion the expenditures of the Organization among the members, in accordance with a scale of contributions to be fixed by the Assembly, and each member shall contribute promptly to the Organization its share of these expenditures. The Assembly shall take necessary measures to ensure that the contributions are paid by all members.

Relations with other organizations

Article 20

The Organization shall make arrangements with intergovernmental bodies and agencies which have related responsibilities to provide for effective co-operation and the avoidance of unnecessary duplication of activities.

1

Consideration by the sub-group of this paragraph, proposed by the United States, is awaiting its consideration of membership.

Article 21

In pursuance of the provisions of the preceding Article, the Organization may¹, by an agreement approved by the Assembly, be brought into relationship with the United Nations, as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations.

Article 22²

The Organization may make suitable arrangements for consultation and co-operation with non-governmental organizations concerned with matters within the scope of the Organization.

S t a t u s

Article 23²

The Organization shall have legal personality and shall enjoy in the territory of each of the members such legal capacity, privileges and immunities as may be necessary for the exercise of its functions.

Article 24²

The representatives of the members and the officials of the Organization shall similarly enjoy such privileges and immunities as may be necessary for the independent exercise of their functions in connection with the Organization.

Article 25²

The privileges and immunities to be accorded by a member to the Organization, representatives and officials shall be similar to those accorded by that member to specialized agencies of the United Nations, their representatives and officials under the Convention on the Privileges and Immunities of the United Nations.

PART IV - SPECIAL FUNCTIONS RELATING TO THE GENERAL AGREEMENT

Article 26

In exceptional circumstances, not elsewhere provided for in this Agreement, nor provided for in the General Agreement, the Assembly may waive an obligation imposed upon a contracting party by the General Agreement; provided that any such decision shall be approved by a two-thirds majority of the votes cast and that such majority shall comprise more than half of the members.

¹ The United States reserves its position that this word should read "shall".

² The United States specifically reserves its position on these Articles.

The Assembly may also by such a vote (i) define certain categories of exceptional circumstances to which other voting requirements shall apply for the waiver of obligations imposed by the General Agreement upon a contracting party thereto, and (ii) prescribe such criteria as may be necessary for the application of this Article.

Note. Articles relating to amendments, entry into force, registration, etc., are still under consideration by the sub-group and accordingly no text is proposed for such articles.