

CHAPTER IX.—GENERAL PROVISIONS

(Articles 98–106)

Article 98: Relations with Non-Members

The regulation of the relations of Members of the Organization with non-Members has, from the first preparatory stages, given rise to a great divergence of opinion. While it is undesirable that a premium should be placed on non-membership of the Organization, it is obvious that rules which would be tantamount to economic sanctions against non-Members would not only be unreasonably harsh on such States, but would also seriously affect the interests of such of the Members of the I.T.O. as have considerable trade with non-Members. Stringent rules would therefore probably result in an unwillingness on the part of many countries to join the Organization until the countries with whom they principally trade also joined. At the best, therefore, such stringent rules would delay the commencement of the work of the Organization; while, if a sufficient number of key countries in the various trade areas stayed out of the Organization, there might be no Organization at all.

The aim of the drafters of this Article, therefore, was to strike a happy medium between rules either too stringent or so lax as to accord advantages to non-Members as compared with Members. The text finally adopted seems to avoid satisfactorily either of these undesirable extremes.

The Article commences with a declaration that economic relations with non-Members are not prohibited. It goes on to declare the general recognition that it would be inconsistent with the Charter for Members to seek preferential treatment from non-Members or to conduct their trade with non-Members to the detriment of other Members of the Organization. In accordance with this general recognition Members undertake not to enter into any new arrangement with a non-Member which prevents that non-Member from extending to other Members the benefits provided by the Agreement. Conversely, Members are also prohibited from extending to non-Members treatment more favourable than that which they extend to other Members and which would injure the economic interests of those other Members. This latter requirement may be waived to the extent that the action does not conflict with the exceptions provided by Chapter IV.

The general effect of paragraph 2 is not such as to require Members to terminate forthwith any existing preferential agreements they may have with non-Members, but does require that existing obligations should be terminated in accordance with the provisions set out in the agreements concerned.

Despite the provisions of paragraph 2, Members may with the approval of the Organization, enter into preferential arrangements with non-Members as provided for in Article 15, or form Customs Unions or Free Trade Areas with them under the provisions of Article 44.