



INTERNATIONAL SUGAR COUNCIL

C(19)07(revised)
(English only)
16 December 2019

This issue was discussed under C/Agenda(19)02, item 13, in the ISO Council meeting of 29 November 2019. The timetables below have been amended in accordance with ISC-Decisions-56 – no.14.

NEGOTIATIONS FOR A PARTIAL REVIEW OF ISA, 1992

At their meeting of 19 July 2019 Council decided (ISC-Decisions-55 – no.5):

"to open negotiations before the next Council meeting in November 2019, under UNCTAD guidance. This would be for a partial review of ISA, 1992 – focusing on Chapter I and Chapter VII, specifically in relation to matters of "administrative budget and contributions of Members", as well as other limited amendments including Chapter IX and Chapter X that Members chose to bring forward. This process must be completed before 31 December 2021."

It is proposed that the Administrative Committee oversees the negotiation process on behalf of Members and makes recommendations to Council. The Administrative Committee consists of the 10 largest Members and 8 elected Members so should be representative of the entire membership. Members who are not on the Committee are invited to attend and participate in discussions, and the evolution of a "Negotiating Group" should be considered.

To facilitate this process, it is recommended that the Administrative Committee meets for at least 4 times for the next two years. The dates proposed in Appendix I have been approved.

It is assumed that Members seek reform of the existing agreement (ISA, 1992) to be enacted under article 44 rather than to renegotiate a completely new agreement under article 35. Appendix II contains a flowchart showing the key decisions required. It should be noted that regardless of what process is followed a decision whether to extend ISA, 1992 will be required by 31 December 2021.

There would be two phases in this process:

- **phase I** - will be to negotiate and agree any amendments proposed by Members (see below)
- **phase II** - will be the schedule required to complete the procedures required under article 44 before 31 December 2021 (Appendix III).

These timetables are the first items relating to the renegotiation process requiring to be agreed or amended by the Administrative Committee.

Activity	Completion Dates
a. ISO secretariat outlines proposal for UNCTAD's involvement in the negotiation process	11 October 2019 completed
b. Administrative Committee review whether call for proposals for amendments is restricted by Council decision or to be an open call	11 October 2019 completed
c. Administrative Committee to review timetable for the negotiating process, and to agree to circulate this to Members	25 October 2019 completed
d. ISO secretariat issues a call for proposals asking Members which parts of ISA, 1992 they wish to recommend amendments to	30 October 2019 extended to 31 January 2020
e. ISO secretariat circulates all proposals received to Members Proposals received by 30 October 2019 were circulated to Members in document C(19)10 of 22 November 2019	21 November 2019 completed
f. Administrative Committee to review potential amendments and propose to Council which amendments should be pursued Proposed amendments include articles 1, 25, 32, 33 & 34	28 November 2019 completed
g. Administrative Committee to agree Article 44 process (Appendix III) Agreed	completed
h. Council to confirm Administrative Committee mandate to monitor negotiation process, evaluate proposals and agree which articles to amend. Council to agree extent of UNCTAD involvement. Proposed amendments include articles 1, 25, 32, 33 & 34	29 November 2019 completed
i. Administrative Committee to review proposals, gauge progress with the objective of finalizing draft amendments MEMBER COUNTRIES TO CONDUCT NEGOTIATIONS	28 February 2020
j. Administrative Committee to review proposals, gauge progress with the objective of finalizing draft amendments MEMBER COUNTRIES TO CONDUCT NEGOTIATIONS	24 April 2020
k. Administrative Committee to complete report on progress and agree on final draft text amendments. MEMBER COUNTRIES TO CONDUCT NEGOTIATIONS	3 June 2020
l. Council to discuss report from Administrative Committee and consolidate final draft text amendments. MEMBER COUNTRIES TO CONDUCT NEGOTIATIONS	4 June 2020
m. Final draft text amendments approved by Council to be circulated to Members MEMBER COUNTRIES TO CONDUCT NEGOTIATIONS	12 June 2020
n. Administrative Committee to review draft agenda for negotiation process.	2 October 2020
o. Council to complete negotiations and agree which articles of ISA, 1992 are to be amended and the relevant wording. Also, to confirm that agreement of exact wording would be delegated to the Administrative Committee to complete by their next meeting MEMBER COUNTRIES TO CONDUCT NEGOTIATIONS	27 November 2020

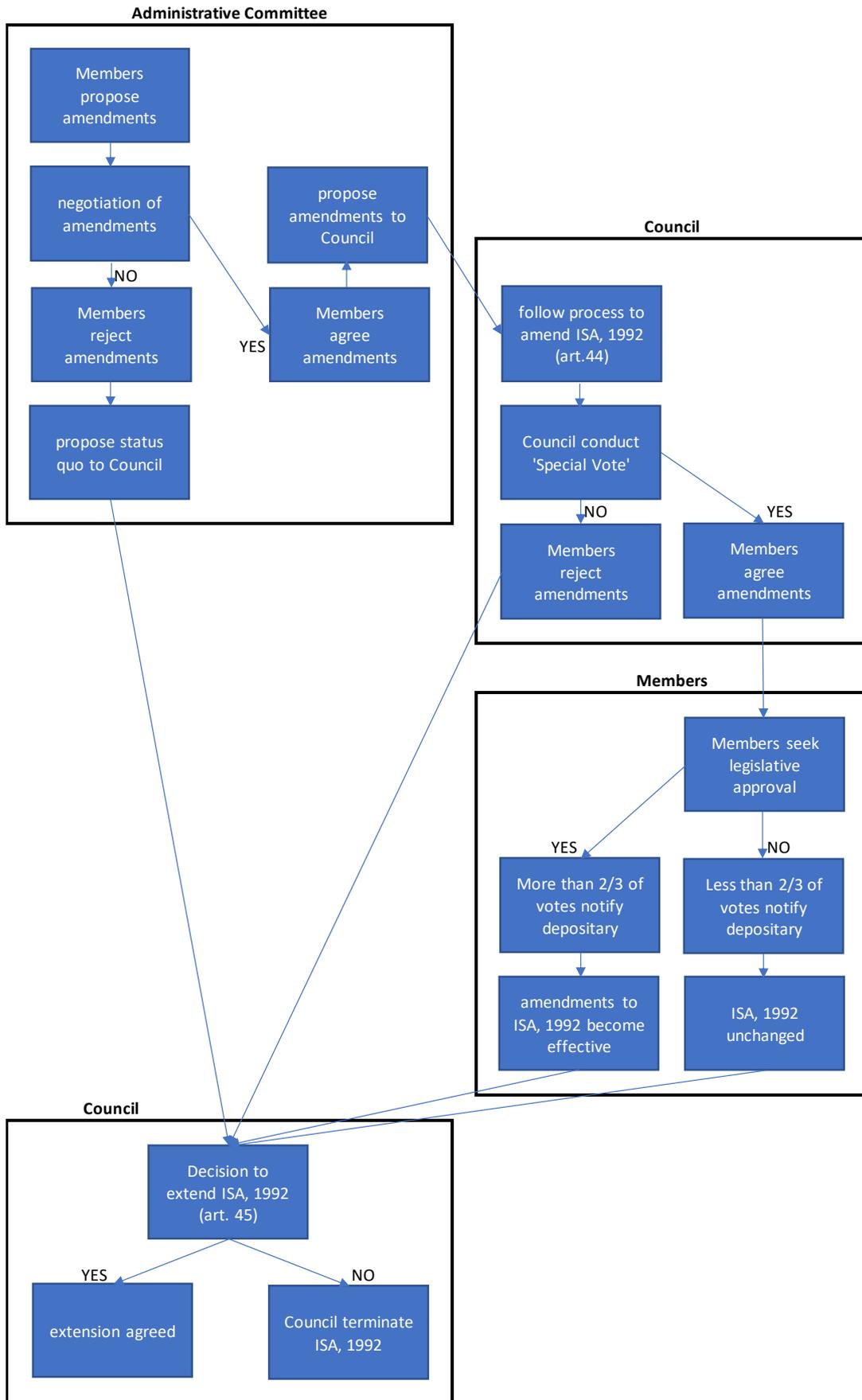
It should be noted that for the negotiation process to function effectively and succeed, all Members must ensure that they have a mandate for their negotiating position.

Parallel negotiations during every stage of the process are essential to forge consensus on the amendments to be made to ISA, 1992. Members' proposing amendments should take the responsibility for ensuring negotiations proceed.

APPENDIX I – meeting dates

Administrative Committee PLUS		Council	
11-Oct-19	Agree process (completed)		
28-Nov-19	Initial amendment proposals discussed and recommendations to Council agreed (completed)	29-Nov-19	Agree Administrative Committee mandate and confirm which articles to amend (completed)
28-Feb-20	Review proposed amendments		
24-Apr-20	Review proposed amendments		
3-Jun -20	Report on proposals and agree on final draft text amendments.	4-Jun-20	Consolidate final draft text amendments
02-Oct-20	Recommend amendments Review draft agenda for negotiation process.		
26-Nov-20		27-Nov-20	Complete negotiations
02-Apr-21	Agree final wording of amendments		
17-Jun-21		18-Jun-21	Amended articles approved by Special vote / Consensus
08-Oct-21	No action		
25-Nov-21	Recommend ISA, 1992 extension	26-Nov-21	ISA, 1992 extension to be decided

APPENDIX II – decision process flowchart



N.B. 'Special Vote' is not required if there is consensus

APPENDIX III – Article 44 process

Article 44 of the ISA 1992 permits amendments to be made to the Agreement and specifies the requirements for such an amendment to be incorporated into ISA 1992. However, the Agreement does not specify the procedures to be followed to table the amendment and there is no process defined within the Administrative Rules, so the following timeline is proposed.

Activity	Timeline	Dates
a. ISO secretariat sends summary of proposed amendments to ISA 1992 to Administrative Committee Members	At least 30 days before Administrative Committee meeting	3 March 2021
b. Final wording of amendments agreed by Administrative Committee	Administrative Committee meeting	2 April 2021
c. Final wording of amendments as proposed circulated to Members by Secretariat	At least 30 days before Council meeting	19 May 2021
d. Members conduct Special Vote	Council meeting	18 June 2021
The following activities depend on a positive vote accepting amendment		
e. Council to fix a time after which each Member shall notify the depositary of its acceptance of the amendment (e.g.180 days)	Council meeting <i>(the 180 days needs to be agreed by Council)</i>	18 June 2021
f. Members to obtain approval for the amendment in accordance with their constitutional procedures	Up to 180 days after Council meeting	15 December 2021
g. Members to provide depositary notification of acceptance of the amendment	180 days after Council meeting	15 December 2021
A. The following steps depend on receiving sufficient notifications		
h. The amendment becomes effective – only if the depositary has received notifications of acceptance from Members holding at least two thirds of the total votes	100 days after Depositary notified <i>(this deadline may be extended by Special Vote)</i>	25 March 2022
i. Members on behalf of which notification of acceptance of an amendment has not been made shall cease to be Parties to this Agreement	100 days after Depositary notified <i>(this deadline may be extended by Council)</i>	25 March 2022
B. The following steps occur if insufficient notifications received		
k. Amendment does NOT become effective and ISA 1992 remains unchanged – only if the depositary has received notifications of acceptance from Members holding LESS THAN two thirds of the total votes	100 days after Depositary notified	25 March 2022

The wording of Article 44 of ISA 1992 is reproduced below.

Article 44 - Amendment

1. The Council may, by special vote, recommend to the Members an amendment of this Agreement. The Council may fix a time after which each Member shall notify the depositary of its acceptance of the amendment. The amendment shall become effective 100 days after the depositary has received notifications of acceptance from Members holding at least two thirds of the total votes of all Members under article 11 as determined under article 25, or on such later date as the Council may have determined by special vote. The Council may fix a time within which each Member shall notify the depositary of its acceptance of the amendment and, if the amendment has not become effective by such time, it shall be considered withdrawn. The Council shall provide the depositary with the information necessary to determine whether the notifications of acceptance received are sufficient to make the amendment effective.
2. Any Member on behalf of which notification of acceptance of an amendment has not been made by the date on which such amendment becomes effective shall, as of that date, cease to be Party to this Agreement, unless such Member has satisfied the Council that acceptance could not be secured in time owing to difficulties in completing its constitutional procedures and the Council decides to extend for such Member the period fixed for acceptance. Such Member shall not be bound by the amendment before it has notified its acceptance thereof.

Article 2 - Definitions

For the purpose of this Agreement:

4. "**Special vote**" means a vote requiring at least two thirds of the votes cast by Members present and voting, on condition that these votes are cast by at least two thirds of the number of Members present and voting;