



SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

Draft Charter

DELEGACION DE CUBA

M E M O R A N D U M

Relative to the Discussion of Articles 15 to 23
inclusive and Article 37 of the Draft Charter.

The Cuban Delegation suggests:

- I. An alteration in the matters to be discussed,
- II. several amendments to the text of the aforementioned articles, and
- III. an interpretation with respect to the bilateral commercial agreements and the status of the products included in them, but not mentioned in the schedules of the Multilateral Treaty.

MATTERS FOR DISCUSSION

I. The Cuban Delegation considers that it is indispensable to determine as soon as possible the principles which should govern international trade and tariff negotiations. It does not see how, before clearly orienting the position of the economy of each country, it is possible in principle to limit the discussions to only a few articles of the Charter, leaving out of the discussion other articles just as important or essential as those selected. Neither does the Cuban Delegation understand why only the articles of the Charter are to be examined, without examining at the same time those which are concordant with them in the General Agreement on Tariffs and Trade which it is desired to sign at this session; if, as is to be expected, the efforts are successful.

In consequence, the Cuban Delegation has the honor to submit to the consideration of the Executive Committee the following alteration in the order of work:

- 1) To extend to the entire text of Chapters I, II, III, IV, and V of the draft Charter the discussion contemplated of the aforementioned articles, without prejudice to beginning the discussion with those

articles; and

- 2) To examine simultaneously the concordant articles in the General Agreement on Tariffs and Trade.

AMENDMENTS.

II. In connection with the discussion of articles 15 to 23 and 37 of the Draft Charter, the Cuban Delegation proposes the following amendments:

1. In connection with Article 15, the text should be revised as follows:

- a) the first paragraph should be deleted;
- b) the text contained in the second part of paragraph 3 should be deleted.

2. In connection with Article 16:

The second part of paragraph 6 should be deleted.

3. In connection with Article 17:

- a) The following paragraph, which would become paragraph 1, should be placed at the beginning of the text:

1. "The Member countries recognize that dumping, whether practiced through the mechanism of price, freight rates, currency depreciation, sweated labor, or by any other means, is a commercial practice to be condemned and is contrary to the spirit and purpose of the International Trade Organization. With the object of indicating the nature of the legitimate defense which anti-dumping measures represent for a Member country, the following precepts are established": . . .

- b) The appointment of a small Ad-hoc Committee to redraft in a positive sense the provisions of article 17 relative to nations which take action to protect themselves against dumping.

4. In connection with Article 20, it is proposed that paragraph 7 should be worded as follows:

7. The Member countries undertake to respect the origin of the products, manufactured or unmanufactured, imported from another Member country, by means of legal or administrative provisions which shall exclude names, marks or indications of origin intended or calculated to produce error or confusion with regard to the origin or place of origin of a product.

This principle shall also be applied to cases in which such words as "type", "quality", "style", etc., which do not exclude error or

confusion with regard to the true origin or place of origin of the product, are added to the names or marks.

Any Member country which considers that another Member is permitting practices contrary to the provisions of the preceding paragraphs, may submit the matter to the consideration of the Organization. The Member who is alleged to permit the prohibited practices would then participate in the discussions regarding the motives of his action. If the Organization reaches the conclusion, "prima facie", that the interests of the complaining Member are adversely affected, it shall recommend the modification of the existing situation, and in case the adverse situation is not modified within 60 days, the complaining Member shall be at liberty to suspend compliance with his obligations or concessions, as provided for in this Charter, to the Member not complying with the recommendation of the Organization.

EFFECTS OF THE MULTILATERAL TREATY ON PREEXISTING BILATERAL TREATIES.

III. The General Agreement on Tariffs and Trade is a treaty which governs not only the tariff status of the signatory nations, but also certain aspects of their foreign commerce. Nevertheless, it does not contain a single precept with respect to its action on the bilateral commercial agreements previously signed and in force on the date of its entry into force of the new multilateral agreement. This gives rise, in the opinion of the Cuban Delegation, to the following questions:

1. Does the General Agreement on Tariffs and Trade replace completely the previous bilateral commercial agreements or not, leaving such bilateral agreements without force between the Nations signatories of the multilateral Treaty?
2. In case of inconsistencies between a tariff situation or schedule of products or duties contemplated in the multilateral Treaty and that which exists in the bilateral agreements, - does the text of the multilateral Treaty prevail over the text of the previous bilateral agreements or not?
3. If a product is not included in the schedule annexed to the multilateral Treaty, but that product is subject to a special system of preferences or tariff advantages governed by previous bilateral agreements, - is it to be considered that the previous situation continues in force or not?

4. In case the previous preferential rates or tariff advantages continue in force, can a Member country claim for its products the same favorable treatment, although the product in question has been excluded from the present negotiations or is not included in the lists annexed to the multilateral Treaty?

The matter has great importance for the tariff negotiations, because a product which has not been included in one of the schedules annexed to the General Agreement on Tariffs and Trade, in one case would be a "free product" without preferences or tariff concessions and in the other case would continue to enjoy the preferences or tariff advantages to which it was entitled by a previous bilateral treaty.

Taking this into consideration, the Cuban Delegation proposes: That the Preparatory Committee shall draw up a paragraph for inclusion in Article 25 of the General Agreement on Tariffs and Trade clearly defining the effect of the multilateral Treaty on the previous bilateral commercial agreements and the situation of those products not included in the former which have been subject to regulation by the latter agreements.

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Geneva, May 7, 1947.