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UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

AD HOC SUB-COMMITTEE ON ARTICLES 14, 15 and 24.

NOTE BY THE SECRETARIAT

ON ARTICLES 14 and 24.

The following note should be read in conjunction with the Annotated Agenda for discussion of Articles 14, 15, 15A and 24 (W.150) and the Report of the Drafting Committee. It indicated briefly the decisions taken in connection with the general discussion of these Articles in Commission A and refers to new amendments suggested or other points raised during that discussion.

A similar note on Articles 15 and 15A will be issued later.

General Comment.

The United States delegation has declared that it may wish, at a later stage, to make suggestions for a general regrouping of the articles under Chapter V. Meanwhile it proposes that Articles 14, 15 and 24 should in any event be grouped together under a single section (#.146). The Chairman pointed out that the Steering Committee had already indicated that these articles were very closely connected (A/PV.8, page 12).

Article 14

General Comment (D.C.Report, page 10)

- (a) The following modifications in the reservations with regard to the adaptation of preferences within a preferential system were made in the general discussion:

Australia: Did not wish to maintain its reservation referring to the extension of existing preferences if the Commission should decide against such proposal, but would find it difficult to withdraw obligations freely entered into in the past with regard to the extension of "accordable preferences" (A/PV.7 page 28).

India: Withdraws its suggestion (A/PV.7 page 29).

Union of South Africa: " " " (A/PV.7 page 29).

Article 14, paragraph 1.

- (a) French observations with reference to the question of direct consignment (W.141): The French delegate hoped that it would be possible to revise the French legislation in time for the signature of the Tariff Agreement. Otherwise, the French Delegation would have to raise the matter again at that time (A/PV.7, pages 10, 12).
- (b) United States Amendment (W.146): the Commission was in general agreement with this amendment (A/PV.7, page 14).
- (c) Australian amendment (W.147), implying addition of the words "except as provided elsewhere in this Charter", was supported by the delegates for the United Kingdom and the Union of South Africa. The delegate for Belgium objected on grounds that the amendment might entail quantitative restrictions and thus introduce a new "escape clause". The delegates for the United States and Canada suggested the matter be referred to the Sub-Committee. Decision: The matter was referred to the Sub-Committee, which was advised to seek legal assistance (A/PV.7 page 21).
- (d) Cuban amendment (suggested in Commission A), involved insertion (after "unconditionally") of the words "subject to the provisions of Article 24" (W.159). This amendment, which is connected with the Cuban suggestion (contained in the same document) to add a new paragraph to Article 24, was referred to the Sub-Committee (A/PV.7 page 6).

Article 14, paragraph 2.

- (a) The Chinese reservation in favour of the right of this Government in case of absolute need to resort to preferences (D.C. Report, page 10) was withdrawn. (A/PV.7, page 24).
- (b) Note was taken of the reservation of the Chilean, Lebanon and Syrian delegates concerning their position on Article 14, made in the Executive Committee. The Chilean delegate maintained his reservation; the delegate for Lebanon stated that his reservation depended on whether a satisfactory solution could be found to the question of regional preferences elsewhere in the Charter, perhaps in Article 38 (A/PV.7, page 25).
- (c) The two lists of territories covering the British Commonwealth and the French Union were approved (A/PV.7, pages 26-27).
- (d) United States amendment (W.146). The discussion turned on the suggested insertion of the words "or internal taxes". The delegate for the United States stated that his country, as well as some other nations, applied certain preferential internal taxes. The delegate for New Zealand, supporting the United States amendment, stated that his country had such a tax (cf. D.C. Report, page 11, Specific comment (c) to Article 15, paragraph 4). The delegates for Belgium, France and the Netherlands were of the opinion that, since 14:1 and 15 prescribed the suppression of discriminative internal taxes, it would be difficult to add words rendering such taxes negotiable. The matter was referred to the Sub-Committee.
- (e) The following points were raised by the delegate for Australia with the request that they be considered by the Sub-Committee (A/PV.7, pages 30-33):
- (i) Temporary reduction or abolition of duties on particular classes of goods under the procedure of bye-law: when the old rate was re-established, the margin of preference would be likely to increase;
 - (ii) It would be desirable to simplify certain multiple customs tariffs and substitute a single preferential rate; but this would involve the choice of a "representative" rate; the preferential margin on imports (of relatively small volume) from certain countries would then be increased;
 - (iii) The Australian amendment to Article 24: 1 b (see below) might have to be considered under Article 14.
- (f) French amendment concerning redraft of paragraph 2 (W.162), suggested in Commission A. The French delegate declared that this amendment was intended chiefly to do away with any confusion between the preferential system on the one hand and the margin of preference on the other. The amendment was referred to the Sub-Committee (A/PV.7, page 34).

Note. The Secretariat may wish to make a suggestion in the Sub-Committee in connection with this amendment.

Article 24 - General Comment.

- (a) The delegate for Norway raised the question of changes in the ad valorem equivalents of specific tariffs that would result if the international level of prices were to raise or fall. The question was referred to the Sub-Committee for consideration (L/PV.8, page 46).
- (b) The delegate for Australia raised certain questions in connection with the tariff negotiations. The initial period of the resulting agreement should be precisely stated, and the machinery by which a country can re-open its agreements, as a whole or in part, should be clearly set out. He thought that the agreements, while being applied multilaterally, should be bilateral in form so that, if a country wished to revise a certain tariff, it would not be formally obliged to re-open negotiations with all the other countries on the Organization but only with that with which the reduced tariffs had been negotiated (L/PV.8, pages 45 - 46). The Chairman thought that the Sub-Committee, when dealing with this question, should consider drafting an appropriate clause for insertion in the General Tariff Agreement. "It is another question whether it is necessary or desirable to have it inserted in the Charter" (L/PV.8, page 46).

Article 24, paragraph 1.

- (a) United Kingdom amendment to the first sentence of preamble (W.135) was withdrawn in favour of the United States amendment (see L/PV.7, page 40).

- (b) United States amendment (W.146):
Preamble: There was no objection in the general discussion (L/PV.7, page 40);

paragraph 1 (a): there was "general agreement" on this amendment (same page);

paragraphs 1 (b) and 1 (c): were not discussed since the Commission considered chiefly the more radical amendment suggested by Australia (see below).

Note: The square brackets around the words "and other charges" in line 6 (preamble) of the United States amendment should be deleted.

- (c) Australian amendment, referring to 24: 1(b) (W.147):
The Australian delegate explained that his delegation considered both sub-paragraphs (b) and (c) unnecessary. It did not suggest a change or suppression of (c); it would have liked to see (b) omitted but understood this might not be acceptable to certain delegates and had hence suggested rules which, he hoped, might prove acceptable to all (L/PV.7, pages 41 - 46).

The delegates for the following countries supported the Australian amendment:

- Canada ("we press very strongly for a change which would make the meaning clear"; L/PV.7, page 47);
- New Zealand ("great difficulty in accepting paragraph b"); L/PV.7, page 51);
- Union of South Africa ("opposed, rather uncompromisingly, to rule (b) as it stands"; L/PV.7, page 52);
- United Kingdom ("desirable to have more clear expression on the lines of the Australian amendment"; L/PV.7, page 52);

The delegates for the following countries objected to the Australian amendment:

- Brazil (both b and c "should be kept"; L/PV.7, page 46);
- Cuba (suggested an amendment of its own - see below);
- United States ("could not accept the Australian proposal as it stands but feel that it provides a basis for discussion"; L/PV.7, page 51);

- Note:
1. In sub-paragraph (iii) of the Australian amendment, the words "or both" should be added after "either".
 2. The delegate for India, who in London and New York had objected to the rule that the negotiated reductions should operate "automatically" to reduce or eliminate margins of preference, did not partake in the discussion.

The Australian amendment was referred to the Sub-Committee which, the Chairman suggested, would find the minutes of the discussion "sufficient guidance to arrive at a satisfactory conclusion" (L/PV.7, page 52).

- (d) Cuban wording of 24: 1b (W.159) aims at protecting "the preferences deliberately kept in force as a result of careful deliberations". Referred to the Sub-Committee (L/PV.7, page 6).

Article 24, paragraph 3.

- (a) Reservations by Brazil and Chile (which in the Drafting Committee had suggested insertion of the words "and particularly with regard to Members' legitimate need for protection"):

Brazil: "willing to withdraw our reservation under the condition that the American amendment is approved (L/PV.7, page 53);

Chile: did not make any statement on this point in the general discussion.

- (b) Similar proposal by China (A.76).
The Chairman made the following statement (A/PV.7, page 2): "This is exactly the same idea as the one submitted by the Brazilian and Chilean delegates, and which we find in the United States proposal, so I think we can concentrate on the United States proposal when we come to it" (cf. also the following point).
- (c) The Chilean suggestion that the expression "Without sufficient justification" be considered (D.C. Report, page 19).
This was again taken up by the Chilean delegate (A/PV.8, pages 9-10). He was not in a position to suggest a precise text but thought that "the text could easily be deducted" from his statement. He wished a solution including both a definition of the word "sufficient" and the idea embodied in the words "legitimate need of Members". His proposal was supported by the Chinese delegate. The question was referred to the Sub-Committee (A/PV.3, page 11; see also point (a) below).
- (d) United Kingdom proposal concerning change in the second sentence (W.135).
The United Kingdom delegate pointed out that it should be open to the Organization to say to a particular Member that it had not contributed enough in the negotiation it had entered. He was supported by the delegates for Australia and the United States. The delegate for France thought the words "or to complete" might have to be changed to "and to complete." The delegate for South Africa drew attention to the difficulty of defining the process of completing negotiations. The Chairman considered that the whole Commission agreed with the idea underlying the United Kingdom proposal and that the Sub-Committee might "introduce some words to make it still clearer" (A/PV.8, pages 7-8).
- (e) United States amendment (W.146).
The United States delegate declared that the discussion on the previous points had dealt with the questions of substance; the remaining changes suggested in W.146 were simply drafting changes. The Chairman thought that there was general agreement on the United States proposal; the Sub-Committee, while going through it carefully to see whether the ideas of the Chilean and Chinese delegates could be taken into account, should not have to "open the whole discussion on the matter". He also expressed the hope that reservations and alternative texts should not be required (A/PV.8, page 11).
- (f) The Secretariat had suggested that the last sentence of 14:3 was superfluous.
The Commission was not prepared, however, to leave out that sentence (A/PV.8, page 12).

Article 24.

New paragraph suggested by the United Kingdom (D.C. Report, page 19; of L/PV.8, pages 15-22).

The United Kingdom delegate thought a provision of this kind required, in the Charter or the General Agreement (he actually thought in both) or as footnotes to the various schedules. Changes in tariff valuation were taken care of in the General Agreement. The question of changes in tariff classification was more complicated; it would be reasonable to have a provision for freezing such classification, and a second foot-note in the General Agreement mentioning the two alternatives of (i) freezing or (ii) if one cannot freeze, then compensatory negotiations. He also mentioned that the United Kingdom proposal as given in the D.C. Report would have to be amended so as to cover reclassification of products (transferred from one item to another; of L/PV.8, page 18).

Canada: Agrees with the United Kingdom while not thinking it possible to freeze classifications.

Belgium: the matter connected with "further negotiations" requires study in greater detail.

China: found difficulties due to reclassifications required in the Chinese tariff.

United States: "at least for the present" the matter should be covered in the General Agreement. The Chairman thought the sub-committee to which the matter was referred, should place the provision in Article 24 and also in the General Agreement.

New paragraph suggested by France (W.142)

The Commission, on the suggestion of the Chairman, agreed that the proposal should not be dealt with at the Geneva Session; delegations might raise the question again when the Organization had come into being (L/PV.8, page 42). (In view of this decision the points raised during the discussion are not summarized here).