

SECOND SESSION OF THE PREPARATORY COMMISSION OF THE  
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENTTARIFF AGREEMENT COMMITTEE

Summary Record of the 16th Meeting held on  
Thursday, 11 September, 1947, at 2.30 p.m.  
in the Palais des Nations, Geneva

CHAIRMAN: Hon. L.D. WILGROSS (Canada)

Article XXX - Status of Contracting Parties

The discussion proceeded on the basis of the text suggested by the United States Delegation in E/PC/T/W/316.

The Committee adopted a redraft proposed by M. ROYER (France) whereby the first paragraph would read as follows:

"The contracting parties to this Agreement shall be understood to mean those Governments which have accepted this Agreement pursuant to Article XXIV or which are applying the provisions of this Agreement pursuant to the protocol of provisional application accompanying this Agreement."

The Committee adopted the text of Paragraph 2 as proposed in E/PC/T/W/316.

Article XXXI - Adherence

The Committee agreed to substitute the word "accession" for "adherence" in the title and "accede" for "adhere" in the text, subject to consideration by the Legal Drafting Committee of the need for any corresponding change in the French text.

M. ROYER remarked that the Subcommittee considering the question of the admittance of Burma, Ceylon and Southern Rhodesia may recommend a modification of Article XXXI. Accordingly the final adoption of the Article was deferred until that Subcommittee could report.

Article XXXI A - Registration of the Agreement 7

Mr. DAO (China) suggested that this provision which had originated with his Delegation might be added at the end of Article XXIV and that the title of Article XXIV be changed to "Signature, Entry into Force and Registration".

Dr. GUTIERREZ (Cuba) questioned the need for such a provision in the light of Article 102 of the United Nations Charter. Mr. SHACKLE (United Kingdom) expressed the view that in the absence of such a provision in the Agreement each Member of United Nations might be required to register the Agreement separately. M. ROYER suggested that the word "authorized" might be changed to "requested".

In the light of advice received from the Legal Department of United Nations during the course of the meeting the Committee agreed to adopt the following language, corresponding to Paragraph 3 of Article 98 in the Draft Charter: "The United Nations is authorized to effect registration of this Agreement as soon as it comes into force". It was agreed that this paragraph be added to Article XXIV and that the title of that Article be changed to read "Signature, Entry into Force and Registration".

Closing Section of the Agreement, beginning "In Witness Whereof..."

The Committee agreed to delete the words "and have affixed their seals hereto" and to revise the words "done in a single copy" to read "done in duplicate in the English and French languages".

Report of Ad Hoc Subcommittee on Paragraph 3 of Article I  
(E/PC/T/192)

Mr. McCARTHY (Australia) pointed out that one or two members of the Subcommittee felt that Sub-paragraph (a) might be improved. He suggested that any redrafting of the sub-paragraph to improve its style might be left to the Legal Drafting Committee.

Mr. RODRIGUES (Brazil) raised a question as to whether the margin of preference should be regarded as the percentage difference or as the absolute difference between the most-favored-nation rate and the preferential rate. Mr. BROWN (United States) observed that the present negotiations had commenced on the basis of using the absolute margin and he felt that any change in this principle now would require a substantial modification of the negotiations. The CHAIRMAN expressed the view that the question was more directly related to the rules governing negotiations than to the results of negotiations and might more properly have been discussed in connection with Article 17 of the Charter. Mr. OLDINI (Chile) felt that the provisions of Paragraph 2 of Article 17 of the Draft Charter should be incorporated in the General Agreement.

M. FORTHOMME (Belgium) remarked that mathematically the percentage principle could not be applied in the case in which the preferential rate was zero. He considered that for practical purposes it had been assumed for the present negotiations that the difference to be considered should be the absolute difference since that was the difference of interest to traders in determining their competitive position. He felt that the Committee should go on record as recognizing that no margin of preference should be increased.

Mr. MOUBARAK (Lebanon) remarked that the preferences applicable to Lebanon and Syria were calculated in percentages.

Mr. McCARTHY felt that if a percentage basis were to be adopted provision would have to be made for other factors affecting the measure of the concessions, such as alterations in currency value affecting the incidence of specific rates. He considered

that great difficulty would be experienced in establishing rules for assessing margins other than on an absolute basis.

The CHAIRMAN remarked that Canada has preferences which are expressed in forms of percentages and others expressed in terms of the absolute difference. He observed that if only the percentage margin were to be taken into account an anomalous result might be secured: as, for instance, in the case in which a 50% preferential difference had been accorded and the most-favored-nation rate were to be increased from \$1.00 to \$2.00. In that case the reliance merely on the percentage differential would require that the preferential rate be increased only from 50¢ to \$1.00, thus increasing the absolute difference from 50¢ to \$1.00. He felt that in this hypothetical instance the provisions of Article 17 of the Draft Charter should require that the margin of preference be maintained at 50¢, as would be the case if the absolute rather than percentage margin were to be used as the basis.

Dr. GUTIERREZ stated that in the view of his Delegation the general preferential clause of the treaty on commerce between Cuba and the United States, which grants preference of 20%, is not affected by the present provision but is included in it.

The Committee adopted the text of Paragraph 3 of Article I.

Report of the Ad Hoc Subcommittee on Paragraphs of Article II  
(E/PC/T/191)

Mr. MELANDER (Norway), as Chairman of the Subcommittee, introduced the report. Mr. OLDINI doubted that the new text covered the full scope of Article 31 in the Draft Charter, and Mr. MELANDER suggested that this purpose could be achieved by either including the text of Article 31 in Part II or possibly by adding at the end of the present draft the words "or the

accompanying Protocol".

After some discussion the Committee adopted Paragraph 3 of Article II as recommended by the Subcommittee and approved of the inclusion of the accompanying interpretive note to the effect that:

"This paragraph was agreed in the belief that, except where otherwise specifically agreed between the parties to a particular negotiation, in the application of the provisions of the paragraph, these provisions would be interpreted by reference to the provisions of Article 31 of the Draft Charter referred to in the Protocol."

It was noted that the drafting of the interpretive note might be improved, and that the Legal Drafting Committee might consider such improvements.

The meeting rose at 6.10 p.m.

E/PC/T/Tac/SR/17

N'existe pas.

Does not exist.