

THIRD COMMITTEE: COMMERCIAL POLICY

SUMMARY RECORD OF THE SEVENTEENTH MEETING (III.a)

Held at the Capitol, Havana, Cuba
Monday, 22 December 1947, at 4.00 p.m.

Chairman: Mr. L. D. WILGRESS (Canada)

1. JOINT SUB-COMMITTEE OF COMMITTEES II AND III.

The composition of the joint sub-committee, already approved by Committee II, was now approved as follows: Argentina, Belgium, Brazil, Canada, Chile, El Salvador, France, Haiti, Iran, Poland, Sweden, Syria, Turkey, United Kingdom, United States of America, Venezuela.

2. SUB-COMMITTEE A OF COMMITTEE III (ARTICLES 16, 17, 18, 19).

The addition of Mexico to the representation on Sub-Committee A was approved.

3. SECTION F OF CHAPTER IV (FIRST READING) (E/CONF.2/C.3/11 and Corr.1).

At the request of Mr. STUCKI (Switzerland) it was agreed that Item 32 should be transferred to Committee III b.

Article 40, Paragraph 1 (a)

Mr. FERRERO (Peru) stated that amendment (Item 1) proposed the deletion of the clause in paragraph 1 (a) relating to quantitative restrictions. Under Article 40 restrictions were allowed without prior approval of the Organization, and that would be particularly dangerous to agricultural products.

Mr. COOREA (Ceylon) opposed the Peruvian amendment. If the emergency measures provided in Article 40 were applicable to tariff concessions, quotas should also be subject to such treatment. No difference should be made in the treatment of bilateral or multilateral agreements in that respect. Article 20 dealt with general practice, whereas Article 40 provided for emergency action in special circumstances.

Mr. FERRERO (Peru) replied that his amendment was an expression of his continued opposition to quantitative restrictions; he was opposed to the application of quotas on imports provided in Article 20 and to restrictions of agricultural products in Article 40.

/Mr. FRESQUET

Mr. FRESQUET (Cuba) said that the drafting change of his amendment (Item 2) substituting "or" for "and" in the second line of 1 (a) would clarify the intent of Article 40; emergency measures could be taken in either circumstance.

Similarly, Mr. LA ROSA (Italy) proposed substituting "or" for "and" in the seventh line of paragraph 1 (a), so that emergency measures might be taken in either circumstance.

Mr. SEIDENFADEN (Denmark) stated that paragraph 1 of Article 40 altered to some extent all of Article 17. The regrettable fact that sub-paragraph (a) had been admitted as a compromise was no excuse for including sub-paragraph (b); his amendment (Item 4) proposed its deletion. No country, even after negotiations, could be sure of stabilizing its economy if emergency measures resulting in the withdrawal of tariff concessions, were permitted.

Mr. SHACKLE (United Kingdom) said that the object of Article 40 was to provide for unforeseen situations which might arise from tariff or preference negotiations. It might have been preferable not to allow emergency measures, but it had seemed necessary to provide for them. This being the case, concessions concerning preferences should be included on the same grounds as tariff concessions.

Paragraphs 2 and 3

Mr. PELLIZA (Argentina) stated that the use of the word "any" for "critical" (Item 5) would eliminate the necessity for defining a "critical circumstance". The amendment to paragraph 3 (Item 6) would remove the necessity of prior approval of the Organization of the emergency action.

New Article 40 A

Mr. PEREZ (Colombia) explained that the proposed new Article (Item 7) seeks to avoid the consumption of any primary product being unfavourably affected by measures taken by Member countries. Countries affected by the establishment of a ceiling price should have some protective recourse to the ITO against damage to their national economies, and the opportunity for protective action when necessary.

Mr. ALMEIDA (Brazil) supported the amendment, which he felt was a complement to Chapter IV but noted that the purpose of paragraph (c) was covered by Article 18.

Replying to a question by Mr. AUGENTHALER (Czechoslovakia) as to whether the producing or consuming country would decide on the relation of ceiling price "with the costs of production and transportation....", Mr. PEREZ (Colombia) stated that it was the producing country. The fact that

/a country did not

a country did not produce an article and had to import it, did not mean that the price should be left to the mercy of the consumer country. The Organization would fix the prices; it should have all information on cost of production, etc., in order to reach a satisfactory solution, so that the producing countries should not be exploited. The amendment would, in effect, protect the smaller countries from the pressure of low prices.

Mr. MELANDER (Norway) could not accept the principle of the amendment and feared that it would preclude the price stabilization policy in Norway and in other countries which subsidized domestic consumers in order to prevent a general rise of prices. If this were not permitted, the economy of many countries would be subject to wide price fluctuations. As for non-discrimination between domestic and imported products, Norway presently discriminated in favour of imports.

Mr. LECOYER (France) while understanding the purpose, doubted the practical application of the amendment. Estimating the cost of production of manufactured goods was extremely difficult, and that of agricultural products practically impossible. Establishing price ceilings by the producing country would encourage high cost of production. Which producer country would be used as a criterion of cost of production? Would essential industrial goods as well as basic commodities be considered?

Replying to the request of Mr. PEREZ (Colombia) that the details should be discussed in sub-committee, the CHAIRMAN stated that that would be the case and that the general discussion in the Committee was concerned with principle.

Mr. DJEBBARA (Syria) felt that the idea of affording certain protection to producers of basic commodities was sound, but that the practical application of the proposed Article would be difficult. In determining a ceiling price, a country would be influenced by whether its own production was equal to or greater than domestic consumption, the surplus being exported, or was insufficient for national consumption, or was non-existent. The exporter's price usually prevailed.

Mr. AUGENTHALER (Czechoslovakia) expressed the view that the interests of consuming and producing countries of primary commodities were similar. It would be disastrous to repeat experiences of last crisis. He favoured stabilization of the prices of primary commodities and basic foodstuffs, but he questioned whether fixing of ceiling prices would prevent price fluctuations and economic disaster. The question should be considered in the light of provisions dealing with inter-governmental commodity agreements. He suggested that the question be studied by a special sub-committee.

Mr. BLUSZTAJN (Poland) agreed with the views expressed by the representatives of Czechoslovakia that the stabilization of prices of basic
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commodities could be best accomplished through inter-governmental commodity agreements. The Colombian amendment sought to protect producer countries against consumer countries, but he was also concerned with the need of protecting consumer countries against producer countries.

Mr. de PEREZ (Colombia) emphasized that the Colombian amendment provided for the member countries the right to complain. The whole problem should be studied.

Mr. SAENZ (Mexico) endorsed the views expressed by the representative of Colombia, and suggested that this amendment be referred to the sub-committee. He was concerned lest policies of price stabilization and rationing might violate concessions granted through negotiations.

Mr. ALMEIDA (Brazil) felt that the remarks of the representative of Norway did not detract from the merits of the Colombia proposal. He disagreed with the French statement that ascertaining of cost of production presented an unsurmountable difficulty. It was known that it had been taken into consideration in wartime price control. The difficulties of the issue could be dealt with in the Sub-Committee.

The CHAIRMAN proposed and the Committee agreed to refer the Colombian amendment to the Sub-Committee.

ARTICLE 41 CONSULTATION

Mr. AZIZ (Afghanistan) stated that the purpose of his amendment (item 8) was to ensure freedom of transit.

Mr. MELANDER (Norway) endorsed the Afghanistan proposal which he considered a mere drafting change which did not affect the original content of the Article.

The CHAIRMAN referred the Afghanistan proposal to the Sub-Committee.

ARTICLE 42 - TERRITORIAL APPLICATION OF CHAPTER IV - FRONTIER TRAFFIC-CUSTOMS UNIONS

Sub-paragraph 2 (a)

The CHAIRMAN stated that items 9, 10, 12, and 13 of the Agenda (E/CONF.2/C.3/11) were referred to the joint Sub-Committee of Committees II and III.

Sub-paragraph 2 (b)

Mr. OLDINI (Chile) traced the evolution of the Charter from London and stressed the necessity for new preferential agreements for regional groups with a period of transition and gradual evolution which might lead to a customs union. At Geneva not all possibilities which present themselves had been explored. No rigid pattern or time limit could be set up in the Charter in this case. Can the Organization determine at a given moment whether a customs union would result or not? He felt that his amendment (Item 11) would make for greater realism and flexibility and would avoid

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excessive intervention on the part of the Organization.

Mr. EVANS (United States) asked whether the Chilean amendment was intended to alter the Geneva draft where it requires that a plan for customs union should include a definite schedule for the attainment of a customs union within a reasonable length of time.

Mr. OLDINI (Chile) replied in the affirmative, stating that the intention of the Chilean amendment was the elimination of a fixed time limit.

The CHAIRMAN referred the proposal to the Sub-Committee.

Paragraph 3 (a)

Mr. PELLIZA (Argentina) speaking on his amendment (item 14) agreed with the Chilean amendments (items 17 and 20) and requested the deletion of sub-paragraphs (b) and (c) in order to eliminate the obligation of a prior consultation and replace it by optional consultation. He felt that the conduct of economic policy should be left to the states and that certain findings of an international organization could have no binding character.

The CHAIRMAN referred the Argentina proposal to the Sub-Committee.

Sub-paragraph 3 (b)

Mr. LA ROSA (Italy) explained that the purpose of the Italian amendment (item 15) was to simplify the establishment of customs unions. The Charter gave a right of veto to the Organization and the purpose of the Italian amendment was to eliminate this.

The CHAIRMAN proposed and the Committee agreed to refer this amendment to the Sub-Committee.

The CHAIRMAN referred to item 23 of the agenda. The representative of Chile did not wish to comment.

Paragraph 4

Mr. SUTPENS (Belgium) referred to the meeting at Brussels which had considered the possibilities of forming a customs union among the countries of Western Europe. He had arranged for certain documents which were drafted at Brussels to be made available for the work of the Conference. Differences had been pointed out in these documents between the nature of tariffs and other restrictive regulations in the case of a customs union.

Mr. OLDINI (Chile) agreed with the representative of Belgium as to the difference between the unification of tariffs and that of other regulations.

Mr. EVANS (United States) felt that the lesson of Belgium should make everybody humble about the infallibility of the written rules. International trade could be seriously injured by arrangements which, although entered into for the purpose of a customs union did not lead to its formation. If rules

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cannot be made clear, power must be given the Organization to determine if a proposed customs union is a customs union.

Mr. SUTENS (Belgium) said that deadlines for forming customs unions should not be too rigid. He agreed with the representative of the United States that the Organization should not be deprived of its authority. There was no point in drafting a Charter unless Members were willing to submit to the control of our Organization. Although the customs union between Netherlands and Belgium would go into force before the establishment of ITO, these countries would gladly submit to the control of the Organization.

Mr. OLDINI (Chile) pointed out that there would be many cases in which the process would be carried on slowly until the time arrived when the customs union would be formed. It had been recognized that a transitional period was unavoidable. He wondered what would happen if the Organization intervened and applied the rigid terms of paragraph 4 to the union between Belgium and the Netherlands.

It was very difficult for sovereign countries embarking on a road to a customs union to submit itself to an international organization which would decide on the desirability of the plans they had drawn up. He felt that the text should be much more flexible.

Mr. LAMVELT (Netherlands) associated himself with the statement made by the representative of Belgium, and repeated that neither the Belgian nor the Netherlands had any objection to submitting their plans to the Organization.

Mr. AUGENTHALER (Czechoslovakia) believed that the Charter should impose conditions, under which customs unions could be formed, applicable to all countries, in order to ensure that economic and not political motives should direct the decisions.

Mr. PELLIZA (Argentina) did not want the Organization to become a super state with powers greater than those possessed by the Governments themselves. Sovereignty meant that a country should conduct its own economic policy; this could not be completely surrendered to an international organization. He was not in agreement with the intransigent character of the draft Charter prepared at Geneva.

The CHAIRMAN said that due note would be taken of the statement by the representative of Switzerland that his country had a customs union with Liechtenstein and that when Switzerland signed the Charter it would also apply to Liechtenstein.

Mr. NASH (New Zealand) pointed out that the rules of the Charter were made according to the views of the majority, and it was their right as sovereign powers to join or not to join the Organization. Exercising the prerogative of joining the ITO was using their sovereign power, not renouncing it.

/Mr. OLDINI

Mr. OLDINI (Chile) agreed with the representative of New Zealand that the rules of the Charter should not be too flexible as to make for deceit nor so rigid as to be unacceptable to countries on account of their conception of sovereignty.

Mr. PELLIZA (Argentina) agreed with the representatives of Chile and New Zealand concerning sovereignty but pointed out that the conference is considering a draft which may be amended.

Article 43 - General Exceptions to Chapter IV

Mr. PACHACHI (Iraq) stated that Iraq had prohibited during the war the entrance of certain goods which were not of purely commercial nature, but which conveyed political ideas. In answer to his question whether these prohibitions, still in force, were a violation of any Articles of the Charter, and if not, what Article of the Charter covered such exceptions, the CHAIRMAN referred to Article 94, and stated the representative of Iraq might submit an amendment either to Article 43 or to Article 94.

Mr. DJEBBARA (Syria) believed that a case such as that of Iraq should be dealt with under Article 94 rather than Article 43.

Section I (d)

Mr. FRESQUET (Cuba) referred to the Cuban amendment to section I (d) (item 24) and wished that disloyal practices should not be tolerated.

The CHAIRMAN referred the Cuban proposal and the proposal of Australia (item 25) I (g) to the Sub-Committee.

Section I (i)

Mr. PELLIZA (Argentina) stated that the Argentine amendment (item 26) was in agreement with the spirit of the Article. He did not agree that the adoption of measures, imposed on the exports of raw materials to assure the development of a national industry should be subject to a time limit.

Section I - new Sub-paragraph

Mr. AZIZ (Afghanistan) said that his amendment (item 28) took into consideration governmental policy in his country to ensure a stable income to agricultural producers.

The proposals of the representatives of Uruguay (item 27), Argentina and Afghanistan were referred to the sub-committee.

Final paragraph

Mr. MELANDER (Norway) believed that there should be no fixed time limit within which the measures referred to at the end of Article 43 should be abolished, but that the Organization should decide upon the time limit.

It was agreed that the proposal of the representative of Norway (item 31) should be referred to the sub-committee.

Section II (a)

Mr. PELLIZA (Argentina) proposed the deletion of the proviso (item 29) thereby attempting not to restrict the powers of the Member to adopt all
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measures considered indispensable. He thought it would be difficult to fulfill the recommendation that all Members were entitled to an equitable share of the international supply of products.

Section II (c)

Mr. PELLERZA (Argentina) pointed out in respect of his amendment (item 30) that the proviso would create difficulties. The liquidation of surpluses had already been provided for in the Charter. The interests of Members would not be harmed by the deletion of the proviso.

He also requested the deletion of the final part of the Article, because he felt that a time limit was unnecessary (item 32).

The amendments of Argentina were referred to the sub-committee.

Section I (c)

The CHAIRMAN referred to the sub-committee the suggestion of the representative of Turkey that platinum should be included in Section I (c).

Composition of the Sub-Committee

The committee approved the following countries as Members of sub-committee of Committee III to examine and report on the amendments to Section F - Special Provisions, with the exception of the Amendment by Switzerland which had already been referred to Committee III (b).

Argentina, Belgium, Colombia, Denmark, France, Iraq, Italy, Peru, Southern Rhodesia, United Kingdom and United States.

The meeting rose at 7.25 p.m.
