

THIRD COMMITTEE: COMMERCIAL POLICY

SUMMARY RECORD OF THE THIRTY-FIRST MEETING

Held at the Capitol, Havana, Cuba  
Wednesday, 4 February 1948 at 3.00 p.m.

Chairman: Mr LLERAS RESTREPO (Colombia)

1. REPORT OF WORKING PARTY NO. 1 CONCERNING THE PROPOSED INTERPRETATIVE  
NOTE ON PARAGRAPH 9 OF ARTICLE 32. (Document E/CONF.2/C.3/41)

Mr. HASNIE (Pakistan) suggested that, in the first line of the Interpretative Note, the word "special" should be amended to read "specific", and should be deleted in the fourth line. The words "...the special facilities" in the seventh line should be amended to read: "these facilities". This was to avoid any conflict with the word "equitable" in paragraph 9 of Article 32, if the Note were to appear in the actual text of that Article.

Mr. MULLER (Chile) at first had no objection to the Pakistan proposal, but suggested that "specific facilities" should also replace "special facilities" in the seventh line of the paragraph. In view of later remarks, he supported the Interpretative Note as it stood.

Mr. GUTIERREZ (Bolivia), Mr. LECUYER (France) and Mr. AZIZ (Afghanistan) supported the text of the Interpretative Note as it stood. Changing the word "special" would destroy the sense of the paragraph.

Mr. MORTON (Australia) as Chairman of the Working Party pointed out that Article 32 paragraph 9 together with the Interpretative Note could not as such compel a country to grant special facilities to any other country. If, however, by virtue of a special arrangement a land-locked country was granted special privileges then the Note to paragraph 9 would apply.

It was agreed that the Interpretative Note as drafted by the Working Party should be appended to paragraph 9 of Article 32.

Mr. FORTHOUME (Belgium) reserved his right to request that the French text of Articles 32 to 39 inclusive should be examined carefully by the Central Drafting Committee to make it conform to the English text which had been accepted by his delegation as the basis.

/Mr. MULLER

Mr. MULLER (Chile) stated that although he maintained his reservation with regard to the text of paragraph 9, he hoped to be able to withdraw it as soon as he received instructions from his Government.

2. REPORT OF SUB-COMMITTEE C (E/CONF.2/C.3/38 and Add.1)

Article 30

Paragraph 4, paragraph 5 (a), paragraph 5 (b), paragraph 5 (c) and Interpretative Note to paragraph 5 approved without comment.

Mr. PELLIZA (Argentina) reserved his position provisionally pending presentation of the final text of Article 24.

Paragraphs 6 and 7 approved without comment.

Article 36

Paragraph 1

Mr. MULLER (Chile) wanted it specified in an Interpretative Note that countries which added certain existing imposts to customs duties should not be considered as raising their customs duties. In the meantime he maintained his reservation. Paragraph 1 was approved.

Paragraph -2

Mr. DOMOND (Haiti) said he would maintain his reservation with regard to Article 35 unless the second sentence of the second paragraph should be amended to read: "Moreover, they shall, upon request by the Organization, review..."

Mr. HAKIM (Lebanon) supported the Haitian proposal as it would not change the substance of the Article.

Mr. PELLIZA (Argentina) said that as the Organization could ask for reports from Members on steps taken, he did not agree that the Organization should make the original request. He supported the text of the Report.

Mr. BANERJI (India) suggested that the sentence should read: "upon request by the Organization at the instance of another Member directly affected..."

Mr. AUGENSTHALER (Czechoslovakia) wished to retain the wording of the Report because he thought the ITO should only be approached if the problem had failed to be resolved through normal diplomatic means of Members.

Mr. MARTIN (United States of America) shared the views of the representative of Czechoslovakia. The action should be on a more informal basis than that suggested by the representative of Haiti.

Mr. DOMOND (Haiti) stated that if the text presented by the Sub-Committee was accepted, he would have to maintain his reservation. He supported the proposal of the representative of India.

/Mr. BLISZTAJN

Mr. BLUSZTAJN (Poland) thought the general procedure for the settlement of differences in Article 35 should not differ from that set forth in Chapter VIII.

Mr. BANERJI (India) said the proposal of the representative of Haiti would alleviate the organizational work both of the Members and the Organization.

Mr. PELLIZA (Argentina) noted that paragraph 2 of Article 34 also contained the same phrase as that under discussion. Perhaps adding "of which the Organization shall be informed" would clarify the intent, but he did not think it necessary.

Mr. FORTHOMME (Belgium) agreed with the representative of Czechoslovakia that the subject was within the province of normal diplomatic channels. It was doubtful whether intervention by the Organization would simplify procedure; moreover, the Organization should not act as a censor or judge in such matters.

Mr. DUNAWAY (Liberia) supported the proposal of the representative of India.

The CHAIRMAN noting no strong support for the proposals of the representatives of Haiti and India, the text of paragraph 2 as submitted by the Sub-Committee was agreed.

Mr. MULLER (Chile) asked for a more precise interpretation of Article 35 than was contained in the Report of the Sub-Committee. Was it possible for a country, under Article 35, to add existing special charges to customs duties without violating the Charter or any negotiated treaties?

Mr. MORTON (Australia) called attention to page 11 of the Report of the Sub-Committee (E/CONF.2/C.3/38). It was the opinion of the Sub-Committee, also expressed during the Conference at Geneva, that a country having a number of imposts on customs duties was at liberty to make the tariff rate equivalent to duties plus combined imposts, thus enabling a trader to know the exact amount of charges imposed.

Paragraph 3, Interpretative Note to paragraph 3, paragraphs 4 and 5 agreed without comment.

New paragraph 6

The CHAIRMAN stated that the Sub-Committee recommended the addition of a sixth paragraph taking note of the fact that tariff descriptions based on distinctive regional or geographical names could be used to discriminate against products of Member countries and called for co-operation toward the elimination of such practices. The question had also been referred to Sub-Committee A as a part of the broader problem of safeguards against the

/circumvention

circumvention of the most-favoured-nation clause by means of tariff descriptions. Sub-Committee A recommended that Article 16 should not be altered and that the new paragraph 6 be included in Article 35.

Mr. LECUYER (France) withdrew his previous reservation although his Government felt that it was premature to insert such provision in the Charter before a complete study had been made. The new paragraph should be included in Article 16 since the principle of most-favoured-nation treatment was involved.

The representatives of Belgium, Czechoslovakia, United Kingdom, Netherlands, Sweden and Luxembourg also suggested that the paragraph belonged in Article 16.

The CHAIRMAN asked Members for their opinion and it was found that the sense of the meeting was in favour of the paragraph being transferred to Article 16.

Mr. GUTIERREZ (Bolivia) provisionally reserved his position to Article 35 pending instructions from his Government.

Article 35

Paragraphs 1, 2, 3, 4, 5 and 6 were approved without comment; paragraph 7 was approved, noting the reservation of the delegation of Chile.

Mr. PELLIZA (Argentina) temporarily reserved his position on Article 36.

Article 36

Paragraph 1 - approved without comment.

Paragraph 2

At the request by the representative of India for a clarification of the report of the Sub-Committee (page 14), Mr. MARTIN (United States of America) stated that "an official announcement made in the legislature of the country concerned" was not always required but was simply one of possible procedure of publicity. It was also permissible to publicize by documentation; the main idea was that there should be wide and prompt publicity.

Paragraph 3-(a)

Mr. BANERJI (India) suggested replacing the word "facilities" by the word "opportunities".

Mr. MORTON (Australia) said that the second sentence of paragraph 3 (a) meant no more nor less than that a trader should have at his disposal all information necessary to enter goods properly for duties.

Mr. AUGENTHALER (Czechoslovakia) requested that the Central Drafting Committee find a better choice of words for the paragraph. As for the second sentence, the suitable facilities could best be obtained through normal diplomatic channels.

/Mr. MacLIM

Mr. MacLIAM (Ireland) supported the proposal of the representative of India; the intention was to protect the trader, but the use of the word "facilities" might be construed in a broader sense than was intended.

Mr. BANERJI (India) agreed with a remark of the representative of Australia that normal facilities were contemplated, and with the representative of Czechoslovakia concerning normal diplomatic channels, but thought that the phrase "suitable facilities shall be afforded...." was too mandatory, and that the word "opportunities" limited the implication to the desirability of a government giving information and help in a normal manner.

Mr. TINOCO (Costa Rica) supported the suggestion of the representative of Czechoslovakia that the Central Drafting Committee consider a wording of the paragraph which would be more in keeping with the dignity of states.

It was agreed that the Central Drafting Committee should examine the text in the light of the discussion.

The meeting rose at 5.10 p.m.

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