

SIXTH COMMITTEE: ORGANIZATION

SUB-COMMITTEE ON ARTICLE 93 (RELATIONS WITH NON-MEMBERS)

SUMMARY RECORD OF THE FIRST MEETING

Held 10 January 1948 at 10.30 a.m.

Chairman: Mr. FORTHOMME (Belgium)

The sub-committee agreed to take Alternative B of the Report of the Preparatory Committee as a plan for its discussion and commenced consideration of paragraph 1. of that draft.

Mr. BENDA (Czechoslovakia) suggested that the wording of paragraph 1. should be "preferential tariffs or exclusive advantages" instead of "exclusive or preferential advantages".

Mr. EVANS (United States) thought that the wording suggested by the representative of Czechoslovakia was not broad enough. The intention of paragraph 1. was to ensure that, in seeking preferential or exclusive advantages from a non-Member, a Member would not nullify benefits obtained by other Members under the Charter. He preferred the wording of paragraph 1. of Alternative C.

After a discussion centreing around the point raised by the representative of Czechoslovakia, the CHAIRMAN asked the sub-committee to consider the exact intention of paragraph 1. Was it intended that the relations of a Member with a non-Member should not be covered by the Charter but that the result of these relations should not be the application by a non-Member to a Member of treatment not in conformity with the Charter, or was it intended that the relations of a Member with a non-Member should be in conformity with the Charter? He believed that Article 93 was intended to cover the application of the Charter as a whole to relations between Members and non-Members.

Mr. BENDA (Czechoslovakia) said that the present opinion of his delegation was that paragraph 1. was intended only to ensure that no Member should be able to seek preferential tariff advantages from a non-Member.

Mr. EVANS (United States) stated that he thought that the debate had become confused by the introduction of the question whether a Member might extend preferential advantages to a non-Member. This question was covered
/by other provisions

by other provisions of the Charter and Article 93 was concerned only with advantages a Member might receive from a non-Member. He explained that the word "seek" had been used in both paragraph 1 of Alternative B and paragraph 1 of Alternative C instead of the word "receive" to include the question of a non-Member, by unilateral action and not upon the request of a Member, extending to a Member exclusive or preferential advantages. If the sub-committee was in agreement that paragraph 1 was not concerned with the question of advantages which a Member might extend to a non-Member, in other words that this paragraph was not intended to qualify other provisions of the Charter, he thought that the only issue to be decided at the present stage was whether or not a Member should be prevented from seeking preferential advantages from a non-Member which that Member would not be permitted to seek from another Member.

Mr. TANGE (Australia) said that he understood the purpose of paragraph 1 was to enable the Organization to obtain indirect control over non-Members. His delegation assumed that Members would be prevented by the other provisions of the Charter from offering preferential advantages to a non-Member. This being the case, he did not think the problem raised was a very realistic one for a non-Member would not be likely to grant to a Member preferential advantages without receiving some similar benefit from the Member in return. He also thought that the test laid down in paragraph 1 of Alternative C would be very difficult to apply.

After opinions on this matter had been expressed by the representatives of the United Kingdom, Sweden, Iran, India, Belgium and Greece, Mr. MACHADO (Cuba) raised the point whether a Member should be permitted to obtain from a non-Member treatment in conformity with the provisions of the Charter but which the non-Member did not extend to other Members.

The CHAIRMAN summed up the discussion as follows:

1. Some representatives considered that the Charter should govern the treatment of non-Members by Members.
2. The question had arisen whether or not a Member should be prevented from seeking from a non-Member an advantage which that Member could not, under the provisions of the Charter, seek from another Member. Some representatives considered that a Member should be prevented from seeking such an advantage from a non-Member; others thought that a Member should not be prevented from so doing so long as such action did not result in discrimination by the non-Member in question against other Members.

/3. Referring to the

3. Referring to the second possible answer to this latter proposition, the representative of Australia doubted the practicability of the test laid down in paragraph 1 of Alternative C and he therefore favoured a solution along the lines of that proposed in the Australian draft amendment.

4. The point raised by the delegate for Cuba.

On the first point the CHAIRMAN asked whether the sub-committee could agree that the Charter should limit the extension by Members of advantages to non-Members.

Mr. RICHARD (France) said that he thought the answer to this question should allow for a certain degree of flexibility. As regards the extension by Members of advantages to non-Members, the other provisions of the Charter applied. As regards the extension by non-Members of advantages to Members, he thought that this might be permitted so long as damage was not thereby caused to the interests of other Members.

Mr. BENDA (Czechoslovakia) said that at the present time all his delegation could agree to was that no Member should seek preferential import or export duties from a non-Member.

The CHAIRMAN said that at the next meeting the sub-committee should attempt to answer the following questions:

1. Whether or not the Charter should cover completely the extension by Members of advantages to non-Members.
2. Whether or not a Member should be able to seek from a non-Member advantages which that Member could not, under the provisions of the Charter, seek from another Member.
3. The point raised by the representative of Australia, dependant on the solution adopted for point No. 2.
4. The point raised by the delegate for Cuba, if the discussions on points 1, 2 and 3 did not incidentally dispose of it.

As he had pointed out above, two alternative positions had been taken up on the second question and the statement made by the representative of Czechoslovakia probably offered a third solution.
