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PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE
ON TRADE AND EMPLOYMENT

COMMITTEE II

DRAFTING SUB-COMMITTEE ON STATE TRADING

SUMMARY RECORD

Second Meeting
held on Saturday, 16 November 1946
at 2. 30 p.m.

Chairman: Mr. JOHNSEN (New Zealand)

1. Discussion of Rapporteur's Redraft of Article 26

Mr. YOUNG, Rapporteur, submitted the following revision of Article 26:

"1. If any Member establishes or maintains a state enterprise, wherever located, which imports, exports, purchases, sells, or distributes any product, or if any Member grants exclusive or special privileges, formally or in effect, to any enterprise to import, export, purchase, sell, distribute, or produce any product, the commerce of the other Members shall be accorded treatment no less favourable than that accorded to the commerce of any country other than that in which the enterprise is located, in respect of the purchase or sale by such enterprise of any product. To this end such enterprise shall, in making its external purchases or sales of any product, be influenced solely by commercial considerations, such as price, quality, marketability, transportation, differential customs treatment, and terms of purchase or sale. Representations made

by Members having an interest in the trade in any product with respect to the operations of state trading enterprises shall be dealt with in conformity with Article 30 of the Charter.

"2. The foregoing provisions of this Article relate to purchases by state enterprises for resale. With respect to purchases by state enterprises for governmental use and not for resale, Members agree to accord to imports from other Members fair and equitable treatment having full regard to the relevant circumstances.

"3. For the purposes of this Article, a state enterprise shall be understood to be any enterprise over whose operations a Member government exercises effective control."

The CHAIRMAN suggested that the phrase "differential customs treatment" should be placed before the word "price" in paragraph 1, and that the word "other" should be placed before the word "terms".

It was agreed that the second sentence of paragraph 1 should read:

"To this end such enterprise shall, in making its external purchases or sales of any product, be influenced solely by commercial considerations, such as differential customs treatment, price, quality, marketability, transportation, and other terms of purchase or sale."

Mr. HAWKINS (United States) pointed out that the third sentence of paragraph 1, as stated in the revision, merely provided for consultation, whereas the intention was to make provision for obtaining necessary information.

The following substitute sentence which he proposed was adopted:

"The Member maintaining such state enterprise, or granting exclusive or special privileges to an enterprise shall make available such information as may be appropriate in connection with the consultation provided for in Article 30."

It was agreed to adopt his suggestion that the word "the" should be changed to "all" in the last line of paragraph 2, which would then read:

"having full regard to all relevant circumstances."

2. Discussion of Rapporteur's Redraft of Article 27

Mr. YOUNG, Rapporteur, submitted the following revision of Article 27:

"If any Member (other than a Member subject to the provisions of Article 28) establishes, maintains or authorizes, formally or in effect, a complete or substantially complete monopoly of the importation or exportation of any product, such Member shall upon the request of any other Member or Members having an interest in trade with that Member in the product concerned, enter into negotiations with such Member or Members, in the manner provided for in respect of tariffs under Article 18, with regard to (a) in the case of an import monopoly, the maximum margin by which the price for an imported product charged by the monopoly in the home market may exceed the total landed cost of such product, before payment of any duty, purchased by the monopoly from suppliers in Member states, or (b) in the case of an export monopoly, the maximum margin by which the price for a product offered for sale by the monopoly to purchasers in such Member states may exceed the price for such product charged by the monopoly in the home market, after due allowance in either case

for internal taxes and for transportation, distribution, and other expenses incident to purchase, sale or further processing, including a reasonable margin of profit. For the purpose of applying these margins, regard may be had to average costs and prices over a recent period of years. Members newly establishing any such monopoly in respect of any product shall not create a margin as defined above greater than the maximum rate of import duty (or, in the case of an export monopoly, greater than the maximum rate of export duty) which may have been negotiated in regard to that product pursuant to Article 18. With regard to any monopolized product in respect of which a maximum margin has been established pursuant to this Article, the monopoly shall, as far as practicable and subject to the other provisions of this Charter: (i) import from Member countries and offer for sale such quantities of the product as will be sufficient to satisfy the full domestic demand for the imported product, account being taken of any rationing of the product to consumers which may be in force at that time and (ii) in the case of an export monopoly, offer for sale to purchasers in Member countries quantities of the product to the fullest extent that can be made available. For the purposes of both (i) and (ii), demand shall be understood to be at the prices charged under the maximum margins."

Mr. KUNOSI (Czechoslovakia) pointed out that the words "due allowance ... for internal taxes" covered cases when heavy internal taxes were imposed on products bought abroad and sold in the home market. But there was no comparable wording which would cover the case of the tobacco monopoly in Czechoslovakia. Under the simple operational system of that monopoly, which represents one of

the most important items of state revenue, no tariffs or internal taxes were applied. But since no part of that revenue was actually collected as an internal tax, the draft Article would not cover that situation. Czechoslovakia would not want to complicate the operational system of its monopoly by imposing an internal tax for which "due allowance" would be given. If the special case of the tobacco monopoly was not covered in the Charter, Czechoslovakia's negotiating position would be weakened.

It was agreed to add the following sentence to the Article:

"In applying the provisions of this Article due regard shall be had for the fact that some monopolies have been established and operated purely for revenue purposes".

It was agreed to amend clause (a) in the first sentence of the Article to read:

"(a) in the case of an import monopoly, the maximum margin by which the price for an imported product charged by the monopoly in the home market may exceed the total landed cost, before payment of duty, of such product purchased by the monopoly from suppliers in Member states".

Mr. TUNG (China) suggested that the word "including" in the last phrase of the first sentence should be replaced by the word "and" so as to make it clear that "a reasonable margin of profit" would be one of the items for which there would be "due allowance".

Agreed,

It was agreed to revise the second sentence of the Article as follows:

"For the purpose of determining these margins in respect of imports, regard may be had to average landed costs and selling prices over a recent period of years."

It was agreed to revise the third sentence to read:

"Members newly establishing any such monopoly in respect of any product shall not create a margin as defined above greater than that represented by the maximum rate of import or export duty which may have been negotiated in regard to that product pursuant to Article 18."

It was agreed to delete the last sentence of the Article and to amend the next to the last sentence to read:

"With regard to any monopolized product in respect of which a maximum margin has been established pursuant to this Article, the monopoly shall, as far as practicable and subject to the other provisions of this Charter: (i) import from Member countries and offer for sale at the prices charged under the maximum margins such quantities of the product as will be sufficient to satisfy the full domestic demand for the imported product, account being taken of any rationing of the product to consumers which may be in force at that time and (ii) in the case of an export monopoly, offer for sale at the prices charged under the maximum margins to purchasers in Member countries quantities of the product to the fullest extent that can be made available for exportation."

Mr. KUNOSI (Czechoslovakia) expressed appreciation for the very fine work of the Chairman.

The meeting rose at 4.10 p.m.