

PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE
ON TRADE AND EMPLOYMENT

COMMITTEE II

REPORT OF THE TECHNICAL SUB-COMMITTEE

PART I

General Narrative Statement

1. The Technical Sub-Committee met nine times under the chairmanship of Senor VIDELA (Chile). The meetings were the occasion for a thorough examination and exchange of views upon the provisions of the United States Suggested Charter relating to the items listed below:

General Commercial Provisions:

National Treatment on Internal Taxation and Regulation
Freedom of Transit
Anti-dumping and Countervailing Duties
Tariff Valuation
Customs Formalities
Marks of Origin
Publication and Administration of Trade Regulations-
Advance Notice to Restrictive Regulations
Information, Statistics and Trade Terminology
Boycotts

General Exceptions (to the Chapter on General Commercial Policy)

2. The Sub-Committee included delegates from all the countries represented on the Preparatory Committee.

3. In order to accelerate the proceedings, two Rapporteurs - one from the French and one from the United States Delegation - were appointed at an early meeting of the Sub-Committee. Later on, a second team of Rapporteurs - one from the Canadian and the other from the Netherlands Delegation - was appointed. In the course of the work, the Netherlands and the United States Delegates in question departed and were replaced by Rapporteurs from the Delegations for Belgium-Luxembourg and the United Kingdom.

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4. The questions referred to the Sub-Committee were discussed in full at its meetings. Delegations were invited to send in their views in writing through the Secretariat to facilitate the work of the Rapporteurs.

5. The reports of the Rapporteurs were considered by the Sub-Committee, which made amendments and comments. The final report of the Sub-Committee was submitted to the main Committee.

PART II

(Summary intended for inclusion in the report of Committee II)

A substantial degree of agreement among all members participating on the Preparatory Committee was reached on questions of the principles underlying these provisions. However, as was to be expected, there were numerous differences of opinion, and a number of reservations were made on account of national variations in the practice of detailed administration.

Complete reconciliation of views was not possible to the extent that agreed text for these Articles could be prepared within the time at the disposal of the Committee. A greater degree of unanimity might have been possible if adequate time had been allowed. In addition, many of the Delegates' suggestions were merely drafting points and it was felt that these should be dealt with by the Drafting Committee which meets in New York in January, 1947. The substance of the discussions is given below.

Article 9: National Treatment on Internal Taxation and Regulation

This article was generally agreed to in principle by the Sub-Committee in that internal taxes and charges should not be used to afford protection to domestic products. However, some countries called attention to practices which might be contrary to this principle and suggested reservation for further discussion thereof bilaterally or ample time for their elimination. Several countries emphasized that central governments could not in many cases control subsidiary governments in this regard, but agreed that all should take such measures as might be open to them to ensure the objective.

It was felt that national treatment could not be applied to the procurement by governmental agencies of supplies for governmental use and not for re-sale. This problem was left to be dealt with by the Sub-Committee on Procedures when it discussed Article 8 on General Most-Favoured-Nation Treatment and it was agreed that the following paragraph should be added to this article:

"The provisions of this Article shall not apply to the procurement by

governmental agencies of supplies for governmental use and not for re-sale.

Article 10. Freedom of Transit

In the discussion dealing with the Freedom of Traffic in Transit, it was generally felt that air traffic should be exempted as a matter which is being dealt with by the Provisional International Civil Air Organization. A number of countries also felt that in the examination of this subject the provisions of the Barcelona Convention of the 20 April 1921, ought to be taken into consideration, and that the terms of any agreement reached on the subject should be carefully defined so as to leave no doubt as to the meaning of traffic in transit and its full implications.

It was decided that paragraph 6 of the United States Suggested Article which gives the definition of "traffic in transit" should become the first paragraph.

Article 11. Anti-dumping and Countervailing Duties

There was general consent among the majority of the countries in the discussions on Anti-dumping and Countervailing Duties that circumstances might arise in which such duties may properly be applied. Some countries felt that the proposal should not be limited to duties as such but should permit the adoption of other counter measures and that there was also need of clarification of definition in view of the variety of circumstances in which dumping may occur.

Article 12. Tariff Valuation

On the subject of Tariff Valuation, all countries concerned agreed that it was necessary to work towards standardization, so far as practicable of definitions of value and procedures in determining the values of products subject of Customs Duties or other restrictions based or regulated in any way by value. They further agreed that this matter should be investigated by the International Trade Organization and they undertook to co-operate in that investigation. It was felt that it was necessary in the meantime for each country to consider its own system to prevent the object in view being defeated by over-valuation and other administrative practices.

Article 13. Customs Formalities

In connection with Customs Formalities, some countries felt that the Geneva Convention of 1923 effectively covered the subject. There was general agreement that subsidiary fees, charges and penalties should not be used as indirect protection to domestic products. On the general question of simplification, it was felt that the International Trade Organization should continue the studies previously instituted by other bodies with a view to the elimination of unnecessary requirements.

Article 14. Marks of Origin

There was a concensus of opinion among countries that excessive requirements in connection with Marks of Origin should be avoided as far as practicable.

It was felt generally that the complicated subject of exemptions from the requirements should be recommended for study by the ITO and that the particular interest of certain countries in protecting the regional or geographical marking of their distinctive products should also be considered by the Organization.

Article 15. Publication and Administration of Trade Regulations - Advance Notice of Restrictive Regulations

It was agreed that, as far as possible, prompt and adequate publicity should be given to change in laws and regulations affecting foreign trade.

As to the suggestion that national tribunals of an independent character should be maintained or established to review or correct administrative customs actions, most countries felt that there was no need to take any special measures for this purpose, as their existing systems seemed to be full and adequate compliance with the requirement.

There was general acquiescence in the proposal that the International Trade Organization should be supplied with full statistical information as promptly as possible; but many countries felt that unless time demands were limited to reasonable proportions an intolerable burden might be imposed on them. This applied particularly to the smaller countries in which present statistical services are less fully developed than in others. A few countries also felt that certain aspects of the matter, with all its implications were proper for study by the International Trade Organization, bearing in mind the work previously undertaken by the League of Nations in this field.

This Article was generally agreed to in principle by the Committee which limited its consideration to customs statistics. Several countries called attention to the fact that similar ground is covered by:

- (a) the Brussels Convention of 29 December 1913 (establishment of international commercial statistics),
- (b) the Geneva Convention of 14 December 1928 (economic statistics),

and that the aims pursued in the Charter as regards the standardization of international commercial statistics (paragraph 1a), the international comparability of these statistics (paragraph 4), the adoption of standard definitions (paragraph 6) and of standards (paragraph 7), can only usefully be realized, insofar as the work undertaken by the League of Nations for the unification of tariff nomenclatures is resumed and successfully completed, since customs statistics can only be established from import particulars based on the terms of tariff nomenclature in each country.

There was also a feeling that ample time should be allowed for the fulfilment of commitments to be undertaken in this Article and that

those commitments should be studied by the Organization with a view to the reduction to a minimum of the statistics to be furnished regularly by members. It was felt, however, that a member wishing to contract out of the requirements of this Article should be required to give to the Organization a detailed statement of its particular difficulties.

Article 17. Boycotts

In principle it was agreed that governmentally financed or organized boycotts designed to discourage importation should be banned. The majority of the countries, however, were of the opinion that this ban should not apply to campaigns sponsored by any Government in support of products of its own national origin and not directed against the products of any specific country.

For the words "political entities" in the last sentence of this Article the Committee agreed to substitute the words "subordinate jurisdictions".

Article 32. General Exceptions to Chapter IV

It was generally recognized that there must be General Exceptions such as those usually included in commercial treaties, to protect public health, morals, etc. Certain countries, however, felt that the exceptions proposed should be reduced or extended, as the case may be, to meet the particular conditions existing in their countries.

Concluding Remarks

A point which arose on several Articles in this Section was the definition of terms used therein as e.g. "like products", "similar products", "products of any member country", "country of origin". The Drafting Committee might consider the desirability of including in this Section of the Charter an Article to contain definitions of these and other terms presenting any ambiguity or obscurity.