

PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE
ON TRADE AND EMPLOYMENT

COMMITTEE II

Twelfth Meeting
Held on 22 November 1946 at 10.30 a.m.

Chairman: Dr. COOMBS

1. Discussion of the Report of the Procedures Sub-Committee

Mr. LEDDY, Rapporteur of the Procedures Sub-Committee, said that Committee II had asked for:

- (a) A report on procedures governing tariff negotiations among Members of the Preparatory Committee in the Spring of 1947 and
- (b) An examination and, if necessary, revision of Articles 8, 18, 29, 30 and 33.

The following documents were before the Committee for its consideration;

- (i) A general draft report (E/PC/T/C.II/57)
- (ii) Amendments to that report (E/PC/T/C.II/57. Corr.1)
- (iii) The revised Articles (E/PC/T/C.II/57. Add.1)
- (iv) A memorandum on multilateral trade agreement negotiations (E/PC/T/C.II/58)

A. CONSIDERATION OF THE DRAFT ARTICLES

Article 8

Mr. le BON (Belgium) referred to the problem of defining the words "product originating in ... any other country". He thought that a product manufactured or harvested in country A, which had entered country B

outside of bond and then entered country C, should be considered as originating in country B.

Mr. LEDDY, Rapporteur, said that the Belgian Delegates interpretation was the usual one, though the question had not been discussed at length in the Sub-Committee. He also pointed out that nothing in the Article would prevent a requirement of documentary proof of origin.

Mr. SHACKLE (United Kingdom) said that the words "originating in" had not always been interpreted in the same way, but problems in that respect had usually been worked out. It was a matter of detail which the ITO could deal with.

Mr. NATHAN (France) wondered how the words "like" or "similar products" would be translated into French. In that connection there was the problem of how broad or narrow those words were intended to be. For example, in the case of wheat, would all cereals be considered "like products" or would only wheat from other countries be considered as such.

Mr. LEDDY, Rapporteur, said that only wheat from other countries, not other cereals, would be considered as a "like product".

Mr. VIDEIA (Chile) referred to a report by the United States Delegate on the subject of defining "like products". That report indicated that the expression had been used for many years in most-favoured-nation clauses without a precise definition. The League of Nations had once made a report on the matter to the effect that a "like product" was one which was practically identical with another. But the ITO would want to give continued study to the matter. The expression had different meanings in different contexts of the Draft Charter.

He said that the Technical Sub-Committee had considered the question of definitions and had proposed that the ITO should work on that matter.

Mr. SHACKLE (United Kingdom) said that the question of "like products" was similar to that of origin. There was no precise definition. But the difficulties to be encountered would not be serious enough to keep the Charter from functioning prior to the adoption of definitions by the ITO.

The Delegates of Australia, Cuba and Czechoslovakia supported the line taken by the United Kingdom Delegate.

Mr. VIDELA (Chile) understood that paragraph 1 of Article 8 had nothing to do with quotas or quantitative restrictions.

Mr. LEDDY, Rapporteur, said that the application of the most-favoured-nation principle to quantitative restrictions would be dealt with by the Sub-Committee on Quantitative Restrictions.

Mr. SHACKLE (United Kingdom) suggested that sub-paragraph (a) in paragraph 2, should be amended to read as follows:

- "(a) Preferences in force exclusively
 - (i) between territories in respect of which there existed on 1 July 1939 common sovereignty or relations of protection or suzerainty, or
 - (ii) between the territories comprised in Annex "X" of this Charter.

Each Member to which provision (i) applies shall provide a list of such territories, which lists shall be incorporated in an Annex to this Charter."

That was purely a matter of drafting.

Mr. VIDELA (Chile) wanted it made clear that sub-paragraph (a) under paragraph 2 had nothing to do with quantitative restrictions.

The Draft Article was adopted, with the amendment proposed by the United Kingdom, and with the understanding that the report would indicate that the ITO should deal with the problem of defining "originating in" and "like" or "similar products".

Article 18

Mr. TUNG (China) said that the provisions of Article 18 would bring about the automatic application of the most-favoured-nation clause. China wished to co-operate in principle with other nations to bring that about. But in view of the fact that preferential tariff systems still existed in various parts of the world, the Chinese Delegation wished to reserve China's right to adopt similar measures herself at any time or to adopt other measures that would enable her to counteract the unfavourable effects on her commerce which might accrue from the use of preferential tariff systems by other nations.

The Draft article was adopted with the understanding that the views of the Chinese Delegation would be placed on record.

Article 29

Adopted, subject to the reservations set forth in the Rapporteur's report.

Article 30

Adopted.

Article 33

Mr. DIMECHKIE (Lebanon) said that, although he did not object to ITO approving new preferential arrangements, he did not think that such approval should be subject to the provisions of Article 55, paragraph 2. If the Committee was not agreeable to amending the Article so as to meet his point, he would wish to place his reservation on record.

Dr. SPEEKENBRINK, Chairman of the Procedure Sub-Committee, said that the inclusion of an exception in the Charter for one type of permanent preference would open the way for many other such exceptions.

The Sub-Committee had hoped that the provisions of paragraphs 2(a) and 4 would meet the needs of a country such as Lebanon.

Mr. LOPES RODRIGUES (Brazil) associated himself with the position which had been taken by the Delegate of Lebanon.

The Draft Article was adopted with the understanding that the reservations of the Delegates of Lebanon and Brazil would be recorded.

The CHAIRMAN asked Dr. SPEEKENBRINK to take the Chair.

Dr. COOMES (Australia) asked if he might reopen discussion of Article 18. He said that Australia had been a party to the Mutual Aid Agreement and had accepted an obligation to eliminate preferences. Australia intended to carry out that obligation. But he was concerned about the word "automatic" in sub-paragraph (b) of paragraph 1 of Article 18. He felt this word rendered that sub-paragraph (b) inconsistent with the broad principle of the Charter that negotiations should be reciprocal and mutually advantageous. It was conceivable that such an automatic reduction of a margin of preference might not in some circumstances be mutually advantageous. He was willing to concede, however, that Australia's interests would probably not be seriously impaired by operation of sub-paragraph (b) as presently drafted.

If there were to be reciprocal and mutually advantageous negotiations, the parties concerned should be free to negotiate in the light of existing circumstances. The bargain should be freely agreed upon without imposition of prior restrictions.

He wanted to make Australia's position clear. But because many changes had been made to the Charter, Australia did not wish to make a specific reservation of its position with respect to Article 18.

The Delegates of New Zealand and South Africa associated themselves with the views expressed by the Australian Delegate.

Mr. HELMORE (United Kingdom) asked what kind of record would be made of the views of the Australian Delegate.

Dr. COOMES (Australia) indicated that inclusion of his remarks in the verbatim record would be sufficient.

Mr. JOHNSEN (New Zealand) agreed that the verbatim record of the views put forward by Australia and New Zealand would be sufficient.

Mr. HAWKINS (United States) said that he appreciated the attitude which had been taken by the Delegates of Australia, New Zealand and South Africa. He wanted to assure them that the United States had every intention that the negotiations should be carried out on a mutually advantageous basis.

Mr. JOHNSEN (New Zealand) referred to the amendment (set forth in E/PC/T/C.II/57 Corr.1) which was to be added at the end of page 4 of E/PC/T/C.II/57. He asked that the amendment be revised to read as follows:

"One Delegation, supported by another, suggested that Articles 8 and 16 should be interpreted in such a way that, so long as a preference remained accordable in one part of a preferential system specified in paragraph 2 of Article 8, that part of the preferential system according the preferences should be at liberty to extend the same, or a lesser measure of preference to any other part of the same preferential system which at present did not enjoy it."

Mr. VIDELA (Chile) asked if he was correct in assuming that the remarks of the Australian Delegate did not relate to quotas, inasmuch as quotas were not dealt with in that section of the Charter.

Dr. COOMBS (Australia) said that the understanding of the Delegate for Chile was correct.

Dr. COOMBS resumed the Chair.

B. DISCUSSION OF DRAFT REPORT OF THE RAPPORTEUR
OF THE SUB-COMMITTEE ON PROCEDURES

It was agreed that the Draft Report of the Rapporteur of the Sub-Committee on Procedures (E/PC/T/C.II/57, with the amendments to the Draft Report included in Corrigendum I, should be considered Section by Section.

Submission of Revised Articles of Draft Charter

The Section (comprising a formal statement of the work covered by the Sub-Committee on Procedures) was adopted.

Article 8

The Section was adopted.

Article 18

Mr. JOHNSON (New Zealand) and Mr. van der FORT (South Africa) associated themselves with the observation made in the last sentence of sub-paragraph (b), page 8, of the comment regarding "Paragraph 1, Sub-paragraphs (a), (b) and (c) - rules governing negotiations", as amended on page 2 of Corrigendum 1. The first line of the amended sentence would then read :

"Three Delegations thought that the rule should not operate....."

Mr. VIEIRA (Chile) raised a point regarding the timing of tariff negotiations in relation to the obligation of Members to remove quantitative restrictions.

The CHAIRMAN pointed out that the subject was dealt with in the "Report on Procedures for Proposed Multilateral Trade Agreement Negotiations." If the point raised by the Delegate of Chile remained in doubt after the consideration of that document, the Committee would return to it.

The Section was adopted.

Article 29

The Section was adopted.

Article 30

The Section was adopted.

Article 33

The CHAIRMAN suggested the inclusion in the comments regarding Article 33 of a reference to the reservation regarding paragraph 4 which was made by the Delegate of Lebanon, with which the Delegate of Brazil had associated himself.

The Section was adopted.

The meeting rose at 1 p.m.
