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ORIGINAL: ENGLISH

DRAFTING COMMITTEE OF THE PREPARATORY COMMITTEE OF THE UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

SUMMARY RECORD OF THE TENTH MEETING

Held at Lake Success on 31 January 1947 at 10:30 a.m.

Chairman: H. E. M. Eric Colban

On the suggestion of the CHAIRMAN it was agreed that the Legal Drafting Sub-Committee will present to the Drafting Committee a clean text of Articles and an annotated text showing changes made.

The Committee considered Article 32, Expansion of Trade by State Monopolies of Individual Products.

Paragraph 1

Mr. ALVAREZ (CHILE) wished to record that in his opinion the provisions under 1 (b) do not prevent the monopolistic enterprise to adjust selling prices of exported goods to world market prices, and that, for commercial reasons, different prices may be charged in different countries. The CHAIRMAN stated that this interpretation was understood.

Mr. SHACKLE (UNITED KINGDOM) doubted if in all cases of export monopoly the maximum margin must be subject to negotiations; in some cases the export tax may be negotiable. He suggested, therefore, to insert in Paragraph 1 (b), line 1, after "export monopoly" the following words: "in instances where a maximum rate of export tax, which may be charged on the product, is not negotiated." He also suggested that the words "reasonable margin" in line 23 of this Article be replaced by: "margin of profit which is reasonable having regard to the conditions of the trade."

/Mr. ALVAREZ

Mr. BAYER (CZECHOSLOVAKIA) questioned the real meaning of the words "substantially complete monopoly" in lines 3 and 4. He contended that there is either a monopoly or there is none. He asked for a more consistent language

Mr. LEDDY thought that if there was not a real monopoly the other country would have no interest to negotiate. There was no obligation of a country to negotiate under this Article.

Mr. SHACKLE pointed out that if there is no real monopoly then it is the customs duty which will be negotiated.

Mr. LECUYER (FRANCE) suggested that the words "complete or substantially complete" be deleted.

Mr. SHACKLE proposed that these words should be replaced by "effective" and that the words "in effect" in line 3 should be replaced by "in fact." The Committee approved these changes, which would be considered by the ad hoc Sub-Committee.

Mr. BAYER wished that this Sub-Committee should also consider the expression "solely" in the last line of the Article. This suggestion was adopted.

Mr. NAUDE (SOUTH AFRICA) questioned the suitability of the expression, "Expansion of Trade" in the heading of Articles 32 and 33.

Mr. LEDDY explained that these words are descriptive of the contents of the Article. If left out, the heading would make no sense in the Charter.

Mr. SHACKLE pointed out that the words are analogous to the words "reduction of tariffs" in Article 24.

It was decided that no change be made in the heading.

Article 33. Expansion of Trade by Complete State Monopolies of Foreign Trade

The CHAIRMAN suggested that the Committee should state in its report that it did not feel itself called upon to consider this Article. The suggestion was adopted.

/Article 34

Article 34. Emergency Action on Imports of Particular Products.

Paragraph 1.

Mr. SHACKLE suggested that the word "similar" in line 6 replaced by "directly competitive".

Mr. LECUYER pointed to the difficulty of translation into French.

Mr. FRESQUET (CUBA) could not accept the deletion of the word "similar" in this Article but found the expression "directly competitive" acceptable. The Committee decided to substitute these words for "similar".

Mr. SMITH (CANADA) proposed that the words "from the territory of any other Member country" be inserted after the words "being imported" in line 3. He suggested, as a possible alternative that the word "and" in line 4 could be replaced by the word "or".

Mr. LEDDY wished to discuss these points with Mr. SMITH.

Mr. BAYER suggested that the words "modify or" should be inserted before the word "withdraw" in line 10.

The suggestion was adopted.

(Mr. LEDDY, however, wished to have time to consider this change.)

The word "the" in line 8 was replaced by "a".

Paragraph 2.

In line 5 the word "the" was replaced by "those".

The word Provided and the following sentence in line 9 were attached to line 8; a new Paragraph (3) should begin with the words "if agreement among..."

These changes were referred to the Legal Drafting Sub-Committee.

Mr. SMITH referred to the reservation made by the Canadian Delegation at the London conference, recorded under 3:b(iii) on page 10 of the Report. He wished to maintain this reservation.

Mr. ALVAREZ also wished to maintain the reservation of the Chilean Delegation recorded in the same paragraph of the Report.

The CHAIRMAN, (speaking as Delegate for Norway), pointed out that it was a dangerous provision which allowed an action to be taken without prior consultation. He did not object, however, to this provision.

/Mr. TORRES

Mr. TORRES (BRAZIL) was in agreement with the working of the Draft Charter, but asked if the time limit of sixty days from the date on which written notice of such suspension is received by the Organization could not be reduced to thirty days.

After discussion this amendment was adopted.

The word "other" in line 15 was deleted, and the word "oppose" in line 23 was replaced by "disapprove".

Mr. LEDDY suggested that the words "In serious cases" in line 23 be changed to "In cases of abuse". The change was adopted, subject to consideration by the Legal Drafting Sub-Committee.

Article 35. Consultation - Nullification or Impairment.

Paragraph 1.

Mr. LEDDY proposed that all references in other Articles to the obligation of members to supply information concerning the operations of state trading enterprises should be deleted, and that the following words be added to this paragraph:

"... and will, in the course of such consultation, provide the other Member with such information as will enable a full and fair appraisal of the situation which is the subject of such representations."

Mr. SHACKLE pointed out that a state trading enterprise should be on the same footing as a private enterprise with regard to obligation to supply information. In particular it should not be required to disclose information which would hamper its commercial operations. He proposed, therefore, the following insertion to Mr. LEDDY's amendment before the word "enable":

"... without prejudice to the legitimate business interests of particular business enterprises,".

Mr. BAYER agreed with the remarks of Mr. SHACKLE but wished to give his opinion on this paragraph after further consideration.

The Committee approved the amendments of Messrs. LEDDY and SHACKLE.

/Mr. LACARTE

Mr. LACARTE (EXECUTIVE SECRETARY) drew the attention to the recommendation of the Technical Sub-Committee (C.6/18, page 6) to insert the words "anti-dumping and countervailing duties" after the word "formalities" in line 5. It was agreed to make the suggested insertion.

Mr. TORRES wished to reserve his opinion for the time being as to the insertion of the words.

Mr. WHITE (NEW ZEALAND) suggested, and the Committee approved, to insert the word "subsidies" after the words "exchange regulations" in line 6.

Paragraph 2

The following changes were adopted:

in line 2, the words "has adopted" were replaced by "is applying";

in line 4, the words "has arisen" were replaced by "exist";

in line 5, the words "Member or" were inserted before the word "Members";

in line 13, the word "other" was deleted.

The language in the last two lines of the paragraph was rearranged as follows: "written notice of such withdrawal is received by the ... Organization".

The Legal Drafting Sub-Committee was asked to consider the expression "object of this Charter" in line 5.

Article 36. Contractual Relations with Non-Members - Treatment of the Trade of Non-Members

The CHAIRMAN referred to the decision of the Preparatory Committee to leave the question for consideration at a later stage.

Article 37. General Exceptions

The CHAIRMAN informed the Committee that this paragraph was referred for consideration by the Technical Sub-Committee.

Presentation of Alternative Drafts in the Report

Mr. FRESQUET wished that the final Report of the Committee should record the alternative drafts on the same footing as the texts to which

/they refer

they refer, preferably immediately after it. It should be apparent that these alternative drafts merit the same consideration of the Second Session of the Preparatory Committee as the main text. It might well be that a text which at present had the support of only a few delegations will at a later stage appeal to other Governments.

After the discussion, in which the Delegates for China, Lebanon, Canada, France, United Kingdom, United States and Czechoslovakia took part, the CHAIRMAN assured the Committee that the views of all the Delegations would be presented objectively and adequately in the Report.

Mr. SHACKLE expressed the hope that the Report will be typographically superior to the Report of the London Conference.