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ORIGINAL: ENGLISH

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

TECHNICAL SUB-COMMITTEE

Eleventh Meeting, 4 February 1947, 2.45 p.m.

Chairman: Mr. R. J. SHACKLE

The summary report of the Sub-Committee's Ninth Meeting (E/PC/T/C.6/33), concerning alternative texts of Paragraph 7 of Article 20 and Article 21 was reviewed and approved with the following changes:

- (a) page 2, second paragraph, delete and substitute: "An alternative text proposed by the Delegate for the United States was passed by the Sub-Committee without dissent, though at a roll taken the Delegates for Cuba, Chile and the United Kingdom did not vote. The Delegates for Belgium, Luxemburg, Czechoslovakia and France, while accepting this alternative (A), did not consider it going far enough and were in favour of the text of the French alternative (B). The two texts in question are reproduced below:";
- (b) page 2, alternative text B of paragraph 7, remove square brackets;
- (c) page 3, delete first paragraph;
- (d) page 3, text of paragraph 1, lines 7 and 8 "effecting" should be "affecting";
- (e) page 4, line 2, delete comma after "force" and plural "s" in "Governments";
- (f) page 4, text of paragraph 2, next to last line of page, substitute "Members" for "they" and "institute" for "establish";
- (g) page 5, first paragraph, delete words in square brackets, as decided during the tenth meeting of the Sub-Committee;
- (h) page 5, line 2, insert "prompt" before "review";

(h) page 5.

- (i) page 5, line 3, substitute "of" for "to";
- (j) page 5, last paragraph, delete entire paragraph;
- (k) page 6, lines 2 and 4 of text of paragraph 3, delete the words in square brackets;
- (l) page 6, text of paragraph 3, line 2 of proviso, insert "for consumption" after "entered" and in line 3, delete "or cleared for export";
- (m) page 6, next to last paragraph, second sentence should read:  
"Several delegates, however, provisionally were unable to accept this text until after consultation with their Governments."
- (n) page 6, next to last paragraph, last sentence, add "with respect to its application to exports."

#### ARTICLE 23 - BOYCOTS

The text of this Article, adopted by the Sub-Committee, is shown below with amendments underscored. The notes indicated by letters after the Article refer to the corresponding item in document E/PC/T/C.II/54/Rev.1:

"No Member shall encourage, support or participate in boycotts or other campaigns which are designed to discourage, directly or indirectly, the consumption within its territory of products of other Member countries on grounds of origin, or sale of products for consumption within other Member countries on grounds of destination: Provided that a campaign in support of the use or consumption of products of national origin or manufacture, and not directed against the products of any specific country, shall not be deemed to be a breach of this undertaking."

- (a) The Delegate for the United Kingdom withdrew his comment as it was dealt with by the above amendment.
- (b) The Delegates for Cuba and the United States withdrew their dissent of this amendment. The Delegate for the United States stated that he would have preferred the original text with no amendment, but pointed out that he was not making a reservation.

• / (c) The Delegate

- (c) The Delegate for India reserves his position on this Article.
- (d) The Chinese comment that weaker countries should be allowed to resort to boycotts in self-defence was retained.
- (e) The Lebanese comment that boycotting may be justified for either political or moral reasons is also retained.
- (f) The suggested Australian amendment was taken into account in the new version.

The second sentence of the original text given in the United States Draft Charter was deleted as this matter would be covered by the addition of a new paragraph, 5, to Article 88, as previously suggested by the Technical Sub-Committee (c.f. E/PC/T/C.6/6, page 3).

#### ARTICLE 37 - GENERAL EXCEPTIONS TO CHAPTER V

The text of this Article, as adopted by the Sub-Committee, is shown below with amendments underscored. The notes indicated by letters after the paragraph refer to the corresponding item in Document E/PC/T/C.II/54/Rev.1:

"Subject to the requirements that measures are not applied in such a manner as to constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in Chapter V shall be construed to prevent the adoption or enforcement by any Member of the measures listed below:"

Paragraph (a) necessary to protect public morals.

Paragraph (b) necessary to protect human, animal or plant life or health [where corresponding measures of protection are taken in the importing country].

The addition in brackets above was suggested by the Delegate for Belgium-Luxemburg and received the support of six other Delegates, namely, Australia, Brazil, Canada, Cuba, Norway and South Africa. Those who preferred the text with no amendment were the Delegate for Chile, Czechoslovakia, France, New Zealand and the United States.

Paragraph (c) relating to fissionable materials.

/Paragraph (d)

Paragraph (d) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on for the purpose of supplying the military establishment.

Paragraph (e) in time of war or other emergency in international relations, relating to the protection of the essential security interests of a Member.

Paragraph (f) relating to the importation or exportation of gold or silver:

- (i) The comment by the Delegate for India that silver should be excluded met with general disagreement of the Sub-Committee.

Paragraph (g) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of Chapter V, such as, e.g. those relating to customs enforcement, state monopolies, deceptive practices, and the protection of patents, trade marks and copyrights:

- (i) Dealt with by the addition of "state monopolies".
- (ii) This suggestion was withdrawn since it was considered that the case was covered by the words "deceptive practices" in this paragraph and further protection would be afforded by the suggested new paragraph (7) in Article 20, Marks of Origin.

Paragraph (h) relating to the products of prison labour.

Paragraph (i) imposed for the protection of national treasures of artistic, historic or archaeological value.

Paragraph (j) relating to the conservation of exhaustible natural resources if such measures are taken pursuant to international agreements or are made effective in conjunction with restrictions on domestic production or consumption:

- (i) The suggested deletion of "if such measures" by the

/Delegate

Delegate for India were retained as that country has no representative on the Sub-Committee.

- (ii) The Delegates for Brazil and New Zealand maintained their position to modify the scope of this paragraph. However, other Members of the Sub-Committee generally favoured maintaining its present wording.

The suggestion proposed by the Delegate for Canada that a new paragraph be added to the effect that Chapter V should not relate to the importation of goods whose manufacture is prohibited in the country of importation was finally withdrawn when delegates opposing the amendment pointed out that a country might easily misuse this escape clause as a method to prohibit importation of certain goods.

The suggestion by the Chinese Delegation for a new paragraph to deal with certain national emergencies was passed over, but it was pointed out that paragraph (b) covered this point to a large extent.

The Indian reservation pertaining to discrimination against a member for reasons of high policy was retained as India was not a member of the Sub-Committee.

As there may be a question of whether electric power is classified as goods or service, the Delegates for Canada and Chile reserved their right to prohibit the export of electric power.

The Chairman of the Sub-Committee, Mr. SHACKLE, will draft two texts according to the opinions expressed in the Sub-Committee pertaining to the proviso covering goods en route in Article 25, paragraph 2 (f), c.f.

E/PC/T/C.6/36, page 3.

The concluding remarks of the report of the London Technical Sub-Committee that certain terms used in this Section of the Charter required definition has been discussed in the full Drafting Committee as this is a matter concerning the entire Charter.

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