

SECOND SESSION OF THE PREPARATORY COMMISSION OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

COMMISSION A

Summary Record of the Twentieth Meeting held on
Saturday, 28 June 1947 at 10.30 a.m. in
the Palais des Nations, Geneva.

Chairman: H.E. Erik COLBAN

The CHAIRMAN opened the discussion on the Report of the
Working Party on Technical Articles (E/PC/T/103).

ARTICLE 16

Mr. GARCIA OLDINI (Chile) stated that his Delegation had
for the time being to maintain the reservation made in respect
of paragraph 1.

Mr. URQUHART (Canada) associated himself with this
reservation.

The CHAIRMAN expressed the hope that both Delegations would
be able to withdraw their reservations before the work of the
Preparatory Committee is concluded.

Mr. S. RANGANATHAN (India) raised the question of what
would be the effect of reservations on any of these articles
which also formed part of the General Agreement on Tariffs and
Trade.

The CHAIRMAN replied that such reservations were considered
also to refer to the corresponding articles of the Tariff
Agreement. In his view, the resulting complications could be

solved either by succeeding in eliminating these reservations or by keeping out of the Tariff Agreement the provisions to which the reservations were attached.

Dr. J.E. HOLLOWAY (South Africa) asked what would be the status of the explanatory notes included in the Report. He was afraid that once the Charter was established, these notes would be disregarded in its interpretation, and therefore he would suggest to lay down a rule perhaps in the article on interpretation, that these notes are part of the material of the Charter.

Mr. Garcia OLDINI (Chile) supported this proposal.

The CHAIRMAN pointed out that if the World Conference would maintain the explanatory notes submitted to it by the Preparatory Committee, it would be the task of the Conference to include an appropriate statement to the effect desired by the Delegates of the Union of South Africa and Chile. He was in agreement with the request made by the Delegate of Chile, and was prepared to raise this point at the next meeting of the heads of Delegations.

The CHAIRMAN then asked for comment and observations on paragraph 1 of Article 16 made by the French Delegation in document E/PC/T/109.

Mr. M.C.E. MORTON (Australia) pointed out that the subject matter of these observations was not related to the provision under discussion.

Dr. S. KORTEWEG (Netherlands) explained that the case of goods consigned to a country in bond without final destination was a case of transit and should be treated as such.

Mr. J.P.D. JOHNSEN (New Zealand) and Mr. W.E.H. RHYDDERCH (United Kingdom) supported the view of the Delegate of Australia.

Mr. de SMEDT (Belgium) stated that the cases in question had been known to exist for a long time and he could not see why they should not be treated as cases of transit.

Mr. G.B. URQUHART (Canada) and Mr. O. RYDER (United States) opposed the proposal of the Netherlands Delegation.

The CHAIRMAN pointed out that it was not the purpose of the Commission to underline differences of opinion. He, therefore, proposed to abandon the matter.

Dr. S. KORTEWEG (Netherlands) accepted this view.

Paragraphs 1, 2, 3, 4 and 5 with the notes attached were approved.

Mr. Garcia OLDINI (Chile) drew attention to the word "like" which in the note to paragraph 5 had once been translated by "similaire" and in a second case by "analogique".

M. ROUX (France) thought it should always be translated by the same word.

The CHAIRMAN then asked the French Delegate to comment on the observation submitted on paragraph 6 in E/PC/T/109.

M. ROUX (France) stated that the French Delegation had accepted the decision of the majority to include this paragraph but had made the same reservation as on Article 14 because the issue was identical. He wished to point out that if this paragraph was maintained, the title of the article "Freedom of Transit" was inappropriate and should rather read "Transit." He could not withdraw the reservation because it was not certain that the French Government would be able to apply the provision as soon as the Charter would come into force.

Dr. S. KORTEWEG (Netherlands) doubted if paragraph 6 was in the right place. It did not concern the question of transit but rather the method of collecting duty and ought to be inserted elsewhere, perhaps under Article 14.

Mr. W.E.H. RHYDDERCH (United Kingdom) stated that this question had been fully discussed in the Sub-Committee and the conclusion had been reached that it should remain in this place.

The text of paragraph 6 was approved. As the discussion on Article 14 had taken place since the Report was drawn up, the note attached to paragraph 6 was altered accordingly from the future tense to the past tense.

ARTICLE 17.

It was agreed that the notes (a) and (b) in the General Comment should be deleted.

Mr. OSCAR RYDER (United States) pointed out that the view expressed in the note to paragraph 1 had been arrived at unanimously and not only by the majority of the Sub-Committee. It was agreed to alter the text of the note accordingly.

The CHAIRMAN pointed out that any explanatory notes which were originally described as stating the views of a Committee, of a Sub-Committee or of a Working Party, would, if retained in the final Report, appear as the views of the Preparatory Committee.

Mr. Garcia OLDINI (Chile), commenting on the note (b) of paragraph 1, maintained that the Member practising dumping should bear the burden of proof and not the Member applying anti-dumping duties.

Mr. ROUX (France) pointed out that whilst all were agreed that dumping was illegal, it was necessary to prevent anti-dumping measures from being misused.

Mr. H. DORN (Cuba) thought that this note dealt with the purely juridical question, and a rule of this kind was hardly in its right place here.

Dr. J. E. HOLLOWAY (South Africa) associated himself with this view. He thought the note should be eliminated because it was a general rule of evidence, the application of which ought to be left to the lawyers administering the Charter.

Mr. ROUX (France) recalled that a certain number of Delegates, including his own, had submitted suggestions concerning the burden of proof and the note in question merely represented the explanation that had been given to them in reply. If it were decided to eliminate it, the French Delegation would have to reserve the right to submit the original amendment again.

Mr. URQUHART (Canada) supported the elimination of the note as the application of Article 35 was beyond doubt.

Mr. George HAKIM (Lebanon) could not agree that Article 35 provided for an obligation to justify anti-dumping duties. It only provided for consultation and

information and the proof mentioned went beyond this. The interpretation given by the Working Party was not correct and if it was desired, then Article 35 would have to be amended. It was not the task of this Commission to interpret Article 35 and it might be referred to the Subcommittee dealing with that Article and to the legal experts for a final decision.

Mr. ROUX (France) stated that if the interpretation given was not confirmed, he would have to make the reservation.

The CHAIRMAN stated that in his view the reference to Article 35 made the note superfluous. He suggested to leave out note (b) and reserve the right of the French Delegation to submit an amendment at the next meeting.

This was agreed.

The CHAIRMAN then requested comment on the note to paragraph 2.

Mr. J.G. CHERRY (South Africa) stated that the South African Delegation had not insisted upon the inclusion of a new paragraph 7 in view of this note.

M. ROUX (France) explained that multiple currency rates arose sometimes without the country concerned being responsible. In that case, it was not the purpose to increase exports and it should not be considered in this light.

Mr. Oscar RYDER (United States) suggested to use in the note the words "multiple currency practices" or possibly "governmental practices" instead of "rates."

Mr. ROUX (France) preferred a draft "multiple currency rates officially practised in certain circumstances by a state."

Mr. Oscar RYDER (United States) wished to consider this proposal until the next meeting.

The meeting rose at 12.55 p.m.