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

COMMISSION A

SUMMARY RECORD

of the 29th Meeting held on Wednesday, 9 July 1947 at 2.30 p.m. at the Palais des Nations, Geneva.

CHAIRMAN: M. M. SUETENS (Belgium)

1. Indian proposal for new Article 26A.

M. F. de LIEDEKERKE (Belgium) enquired about the Indian proposal for the insertion of the new Article 26A (Note 40)*.

The CHAIRMAN informed the Commission that the special Sub-Committee on Chapter IV had been instructed to consider this article and Mr. ADARKAR (India) explained that the Indian Delegation had consented to this procedure on the understanding that the question of prior approval had not yet been definitely decided.

After the delegates of Belgium and the Netherlands suggested to discuss the Indian proposal nevertheless in the Commission, Dr. COOMBS (Australia), as Chairman of the Sub-Committee on Chapter IV, advocated to discuss this proposal only in the Sub-Committee on Chapter IV with the understanding that every member of the Commission will be entitled to express its views on this proposal in the Sub-Committee.

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* The notes mentioned in this Summary refer to the consecutively numbered notes in E/PC/T/W/223.

The CHAIRMAN confirmed, upon query of the Belgian delegate, that no final decision on the Indian proposal will be taken by Commission A before the Sub-Committee on Chapter IV will have reported its conclusions to the Commission.

2. Article 28, Paragraph 1

(a) Sub-paragraph (e)

Mr. J.R.C. HELMORE (United Kingdom) explained that the intention of the drafters of this sub-paragraph had been to deal with the problem of inconvertible currencies and to enable members who hold such currencies to deviate from the strict application of the principle of non-discrimination if, in this manner, an otherwise impossible increase in the volume of foreign trade could be achieved. He explained the actual working of this provision by quoting the example of imports of oranges to the United Kingdom from the United States of America and Italy. The United Kingdom was in agreement with this sub-paragraph up to (ii) and the proviso clause. However, the United Kingdom felt that (ii) and the proviso clause would give countries with inconvertible currencies much greater freedom in this respect. The effect of the sub-paragraph, as at present drafted, would be to deter from assuming the obligation of convertibility and would thus be harmful for the development of free multilateral trade and general free exchangability of currencies. The present text would also involve the danger of being used as subterfuge for actual barter agreements.

Referring to the Australian amendment (Note 53), Dr. COOMBS (Australia) explained that in view of the enormous theoretical and practical difficulties involved in this problem,

the Australian amendment was primarily intended, during the present Session, to promote the study and a more satisfactory solution of all issues involved.

Mr. G. BRONZ (United States of America) stated the United States view that as a philosophical point, free trade and non-discrimination are practically identical and that no form of discrimination can be an adequate means to promote freer and fuller trade. He felt that the cases quoted by Mr. Helmore would be covered by the present text. The present text requires the prior approval of the Fund and the I.T.O. unless exchange controls are permissible under Articles VIII or XIV of the Bretton Woods Agreement. In the latter case the use of Q.R.s is only a different mechanism for administrating measures already permitted to the member. Any change of the principle of prior approval, as existing in the present text, would tend to perpetuate discrimination and bilateralism instead of aiming in the direction of non-discrimination and multilateralism.

Mr. F. de LIEDEKERKE (Belgium) stated the Belgian position as considering the principle of non-discrimination one of the most important principles of the Charter and wished that the Sub-Committee would pay attention to not allowing changes in the text which might open the door to more discrimination than absolutely necessary.

M. P. BARADUC (France) fully agreed with the United States on the desirability of the principle of non-discrimination. He pointed to the dangers inherent in a too rigid application of this principle, explaining that France had succeeded in re-establishing highly satisfactory trade relations with Belgium, the Netherlands and Switzerland and had attained an increase in

the volume of trade which would have been impossible under strict application of the rules of Article 27. He recommended careful re-consideration of all the problems involved and especially of the problems of the transitional period. Exceptions to the rule of non-discrimination should be applied not only according to strictly financial considerations but also with a view to general economic and even of political considerations.

(b) Sub-paragraphs (d) and (e)

After Mr. H. DORN (Cuba) had explained the intentions of the Cuban amendment (Note 51), the amendments to sub-paragraphs (d) and (e) were referred to the Sub-Committee.

3. Article 28, Paragraph 2

Mr. J.G. PHILLIPS (Australia) explained the intentions of the Australian amendment (Note 54).

Mr. F. de LIEDEKERKE (Belgium) opposed the Australian amendment because it would reduce the power of the I.T.O. toward members who did not fulfil their obligations under the Charter. He suggested to insert a sentence that in no case shall the organization enter into conflict with the International Monetary Fund, which clause would remove the need for the deletion proposed by the Australian amendment.

Mr. J. MELANDER (Norway) supported the Australian amendment.

Mr. J.R.C. HELMORE (United Kingdom) had no very definite views on the Australian proposal and pointed out that the same conditions ought to apply all around. The right of discrimination should be allowed according to the need and the justification for it and not according to the test whether a country happens to have convertible currency or whether it happens to exercise a defence of its balance of payments

position through import or exchange restrictions.

Mr. G. BRONZ (United States of America) agreed with Mr. Helmore that the ultimate goal should be to narrow the area of discrimination in international trade.

Mr. F. GARCIA OLDINI (Chile) expressed himself against the principle of paragraph 2 if vital interests of members are concerned. The Sub-Committee should give consideration to the course of action open to a member if the organization disallows discrimination despite the fact that vital interests are affected.

4. Paragraph 3

Mr. G. BRONZ (United States of America) explained the intentions of the United States amendment (Note 56).

Mr. HELMORE (United Kingdom) felt that although the present text was unsatisfactory, some other words would have to be substituted for the words deleted by the U.S. amendment.

Mr. WEBB (New Zealand) opposed the U.S. amendment in view of the fact that general economic welfare was the supreme objective of the Charter.

Mr. G. BRONZ (United States of America) explained that the date of the 31 December 1951 had been chosen in view of the Five Year Provision in Article XIV of the Bretton Woods Agreement. The intention was to provide for a joint review of the Fund and the I.T.O. and the date should be changed to April 1952.

Mr. F. GARCIA OLDINI (Chile) opposed the U.S. amendment because it implied the principle that at a given date all discrimination should be abolished, not because it restricts the expansion of world trade, but for reasons of principle.

Mr. HELMORE (United Kingdom) proposed a compromise formula, suggesting to delete all the words after "International Monetary Fund" and by inserting a sentence providing for a review with a view to the earliest possible elimination of any discrimination after convertibility has become generally acceptable.

5. Article 29

Mr. G. BRONZ (United States of America) explained the reasons for the U.S. amendment (Note 58). Apart from the slight drafting changes there was a substantive amendment which would have the effect that the International Monetary Fund should have a final word on questions which are essentially financial in nature. This would eliminate duplication of functions and facilitated the personnel problem.

Mr. E.L. RODRIGUES (Brazil) supported the U.S. amendment.

Mr. L.C. WEBB (New Zealand) agreed with the objective of non-duplication. He preferred the word "jurisdiction" for "competence" and felt that the words "balance of payments problems" were too narrow. He disagreed with the last sentence of the U.S. amendment, explaining that there were three stages to be considered: first, the collection of facts; second, the interpretation of facts; third, final action in the light of interpretation. Whilst he agreed with the principle that the Fund should have exclusive jurisdiction in the first stage, joint operation of the experts of both organizations should be the rule in the second stage, whilst in the third stage the I.T.O. should have the final decision.

Mr. G. BRONZ (United States of America) explained that the Fund is getting confidential statistical information from member governments which would not be available to the I.T.O. for

reasons of security. Consequently, since this information would not be available to it, the I.T.O. could not arrive at an intelligent judgment on the fundamental questions at issue.

Mr. H. DORN (Cuba), referring to Article 81, suggested to leave it to the Legal Drafting Committee whether the word "competence" or "jurisdiction" should be employed.

Mr. HELMORE (United Kingdom) pointed out that the choice of the word would not be a matter for the Legal Drafting Committee but would have to be decided by the Commission since "competence" was a wider and "jurisdiction" a narrower concept. He supported the position of New Zealand regarding the word "analysis". If "analysis" meant merely details of facts, then this should be clearly expressed; it would be highly dangerous to give the Fund the final word in trade matters even at the beginning of the drawing of conclusions.

Mr. PHILLIPS (Australia) shared the doubts expressed by New Zealand and the United Kingdom as to the scope of the last sentence of the U.S. amendment. He would not like to think that the organization was bound to accept the opinion of the Fund once the question of remedies or of analysis is in question.

The Australian Delegation wished the record to show that they would not regard the issues of Articles 26, 28 and 29 as closed until a definite text for Article 63 and Article 66, paragraph 5, will have been established.

After a short general exchange on the relative merits of the words "competence" and "jurisdiction", M. BARADUC (France) stated that he agreed with the U.S. amendment as far as it aimed at the elimination of duplication of work by the two organizations. However, the text of the U.S. amendment gives

the impression that the Fund should alone be competent to judge on matters relating to the implementation of the provisions of Article 26 and he did not think that the organization should be precluded from taking its own decisions on these questions and to consider any advice which might be given to it.

6. The Commission referred Articles 28 and 29 to the Sub-Committee which had been appointed in the previous meeting.

The CHAIRMAN stated that the Chinese amendment (Note 60) had been discussed during the special meetings of Commission A and after Mr. HSIEH (China) requested to have this proposal referred to a competent Sub-Committee, the CHAIRMAN ruled, with the consent of China, to refer this proposal to the special Sub-Committee on Chapter IV.

The meeting rose at 6.20 p.m.