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

VERBATIM REPORT.

THIRD MEETING OF THE TARIFF AGREEMENT COMMITTEE

HELD ON MONDAY, 11 AUGUST 1947, AT 2.30 P.M.

IN THE PALAIS DES NATIONS, GENEVA.

Hon. L. D. WILGRESS (Chairman) (Canada)

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CHAIRMAN: The Meeting is called to order.

We shall resume the general debate on the Report of the Tariff Negotiations Working Party on the General Agreement on Tariffs and Trade. I would request Members of the Committee, however, to refrain for the time being from commenting upon the suggestion of the Australian Delegation that Article I of the General Agreement be deleted, because Dr. Coombs is not able to be present today, as he has to take the Chair in the Sub-Committee on Chapter IV, and he would prefer to be present when any comments are made on that suggestion, which was put forward by the Australian Delegation, namely, that Article I is not a necessary part of the Agreement.

*Invited
Guests*

Before we resume the discussion, I would like to bring to the attention of Members of the Committee the Supplementary Report of the Tariff Negotiations Working Party contained in Document E/PC/T/153. This is a Report on the Schedules to be attached to the General Agreement on Tariffs and Trade. This Report will be discussed in detail when we come to deal with the Schedules, but it will be in order for any Member of the Committee to refer to this paper during the course of the general debate.

Do any Members of the Committee wish to take part in the general discussion on the Report of the Tariff Negotiations Working Party?

Mr. S. L. HOLMES (United Kingdom): Mr. Chairman, I had not really intended to say anything at this stage. The United Kingdom will attempt to conform with any arrangement which is come to about the programme for the signature and enforcement of the General Agreement. I think I could say, perhaps, that we shall find it very difficult to accept an obligation to put the Tariff Schedules into actual effect earlier than 1st January, which is, I believe, something like a fortnight later than a date which has been hitherto suggested.

I doubt whether that is a very serious matter. It is due to the great complexity of the technical processes which will have to be gone through and due, of course, in part also to the requirements of our Parliamentary procedure. But it had occurred to me that, in view of the rather long discussion we have had, in the course of which Members of this Committee have given at some length their views on the General Agreement as a whole and the extent to which it conforms with their Parliamentary and other methods, it might be useful if there were some sort of analysis drawn up of the views expressed. It is rather difficult to get an assessment from the very full Minutes of the actual position which has been reached, or, so to speak, the general average of the views expressed. I only throw out that suggestion, Mr. Chairman, with a view perhaps to facilitating our discussions and, indeed, facilitating the task of the Secretariat also.

CHAIRMAN: I want to thank the United Kingdom Delegate for his suggestion. I take it that his suggestion relates to the various views expressed by representatives of the different Delegations in the earlier part of our debate regarding the date of signature and the provisional application of the Agreement.

If that is the suggestion of the United Kingdom Delegate, it will be quite feasible for the Secretariat to prepare a summary of the views expressed by the various Delegations in the first part of our debate.

As I announced at the last meeting, the closing date for amendments to Part III of the Draft of the General Agreement on Tariffs and Trade was fixed for noon today. A number of

amendments have been filed. These amendments will be circulated and later on the Secretariat will prepare an annotated agenda summarizing the various amendments which have been filed. At the same time, the Secretariat will be able to add to that annotated agenda a statement summarizing the views expressed by Delegations regarding the date of signature and the date of provisional application of the General Agreement, so that this summary can be taken into account when we come to consider in detail the relevant articles in Part III which pertain to the date of signature and the provisional application.

I would like to know if that would meet the suggestion just made by the United Kingdom Delegate.

Mr. HOLMES (United Kingdom): Thank you, Mr. Chairman. I think it would be very helpful.

CHAIRMAN: Are there any other comments?

Mr. E. McCARTHY (Australia): Mr. Chairman, it might be helpful if when furnishing that information a note was made as to whether parliamentary sanction had to be given as to the procedure taken by certain governments, and if, on the other hand, sanction by the interested Parliament is practicable, the point being that a country ^{may} declare it cannot bring it into operation by a certain date because parliamentary sanction and parliamentary support cannot be given. If, on the other hand, this agreement cannot be given, I think we should not insist if it is a matter of adding that extra piece of information.

CHAIRMAN: That will be done so far as practicable. Are there any other comments?

M. F. GARCIA OLDINI (Chile) (Interpretation): We are only speaking, Mr. Chairman, of the provisional application of the Agreement?

CHAIRMAN: This is a general discussion on the Report of the Tariff Negotiations Working Party. We had really terminated our discussions on the date of signature and provisional application, and I have announced that we would return to this question when we considered article by article the various articles contained in Part III of the Agreement, but the United Kingdom delegate ^{made a} suggestion with a view to facilitating our discussions when we came to consider the Articles dealing with the signature and provisional application: and that is the reason why the debate has taken this turn; but it was really a general discussion on the Report of the Tariff Negotiations Working Party.

H.E. Z. AUGENTHALER (Czechoslovakia): Mr. Chairman, I was not quite sure what we would be discussing to-day, and we have transmitted to the Secretariat our comments. We : It dealt with Part III but we made also some general comments as to the whole Tariff Agreement. It is not long but I think it may be interesting to Members who will receive the document to-morrow, and it may be useful if I read what we have suggested there:

The conclusion of a General Agreement on Tariffs and Trade is outside the terms of reference of the resolution by which the Preparatory Committee was created. Therefore, in the view of the Czechoslovakian delegation, the conclusion of this Agreement represents action taken outside the Economic and Social Council of the United Nations. The purpose of this Agreement in the view of the Czechoslovakian delegation is to give an example to other States in respect of a lowering of tariffs and a reduction and elimination of preferences. It is the assumption of the Czechoslovakian delegation that this is only a provisional action creating a provisional state of affairs which will have to be merged with the I.T.O. as soon as it has been created. Otherwise, there would be a certain danger of having two parallel bodies in existence - one the I.T.O. - the other one an executive organ charged with the administration of certain provisions of the Agreement. The determination of these bodies need not necessarily be the same on the same issues. It is also the view of the Czechoslovakian delegation that in no case must either the creation of the I.T.O. or the conclusion of the Agreement lead to a situation which would create specialised agencies trying to achieve an existence independent of the United Nations and especially of its highest body competent for economic affairs such as the Economic and Social Council. That this view might be shared by many delegation is apparent from the discussions during the last session of the Economic and Social Council. Thus the delegate of

Norway in connection with the discussion on whether non-Members of the United Nations should have the right to vote at the International Conference on Trade and Employment or not, declared among other things:

"In other connections we have seen a certain tendency on the part of the specialised agencies who make themselves more or less independent of the general policy of the United Nations. "

I think that ^{the} same considerations are involved here in a certain way. The delegate of Canada declared:

"But we are a Council of the United Nations and we have to view this matter not in the light of the atmosphere of any particular place at the moment, but in the light of what this means to the much more important question and that is the continued integrity and effectiveness of the United Nations Organisation as a whole.

"I believe we are developing a dangerous tendency in this Council. This Council could easily become a mere filing agency and I am not so sure that critics of the Organisation would not be justified in making that kind of observation. When this Council was established - at its first meeting when discussions took place as to its terms of reference and as to the kind of developing functions it would assume - it was not intended to be a body that would exercise vis à vis specialised agencies the functions of an equal partner, but it was to be a co-ordinating body - a sort of cabinet. I doubt if we are developing that function. It would seem to me that we must view this question in the light of the situation. I feel that the Economic and Social Council will lose its prestige and efficacy if it does not develop into a body which exercises moral authority on the specialised agencies with whom it has not entered into contractual relationships on terms that are settled. However, in my judgment, and in the judgment of my delegation, this matter gives reason for a good deal of concern.

The Czechoslovak Delegation therefore suggests that it would be more appropriate

(a) to submit the draft Agreement before it is put into force to the Economic and Social Council so as to make sure that there will be nothing in the Agreement which would conflict with the policies of the United Nations generally and the Economic and Social Council especially,

(b) to limit the scope of this Agreement in such a way as to enable its earliest liquidation as soon as the Charter has been put into force and also to enable a quick transfer of all the functions of the "Committee" to the International Trade Organization.

CHAIRMAN: Are there any other speakers?

MR. S. L. HOLMES (United Kingdom): Mr. Chairman, Annexure 7 of the Report of the First Session of the Preparatory Committee, which will be found on page 47 of that Report which was issued at our London meeting, contains a Resolution Regarding ^{the} Negotiation of a Multilateral Trade Agreement Embodying Tariff Concessions - the Resolution of the Economic and Social Council was passed, on 18 February 1946 - and explains that in the view of the Preparatory Committee the task of the proposed International Conference on Trade and Employment would be facilitated if concrete action were taken by the principal trading nations to enter into reciprocal and mutually advantageous negotiations directed to the substantial reduction of tariffs and to the elimination of preferences. The Committee thereby recommended to the Governments concerned that the meeting of Members of the Preparatory Committee envisaged by the invitations which had been sent out by the United States Government should be held under the sponsorship of the Preparatory

Committee in connection with, and as a part of, the Second Session of the Committee.

Now, if there were any real reasons for thinking that it was necessary to submit the Draft General Agreement on Tariffs and Trade, with which we are now concerned, to the Economic and Social Council, I should imagine that at one of the Sessions of the Economic and Social Council which have been held since this Preparatory Committee met in London last Autumn there would have been some suggestion on the part of the Economic and Social Council to that effect.

In the remarks that he has just made, the representative of Czechoslovakia has referred to some remarks made by the representative of Canada last Friday week in New York; but about those remarks I should like to say two things: one is that they have already formed the subject of considerable discussion at another meeting of a body connected with this Preparatory Committee - the Heads of Delegations - in the course of which the representative of the United Kingdom made certain criticisms directed particularly, I think, to that passage which we have just heard so far as it related to the danger of the Economic and Social Council becoming a mere filing agency. It was pointed out on that occasion that it was really the meanest type of bureaucracy to consider that because one's junior submitted to one a document one was necessarily, therefore, obliged to criticize it or amend it or otherwise to look on oneself merely as a filing agency.

The second point, however, that I wish to make is that those remarks were directed to the question as to whether non-Members of the United Nations whom it had been decided to invite to the International Conference next autumn in Havana should be allowed to exercise at that Conference the right of voting. It is at least interesting that, if my memory is right, those who were in favour of giving the vote to such invited Members, though they did not succeed, did include the representative of Czechoslovakia at the Council. I wonder, therefore, whether the extended reference to the remarks at the Economic and Social Council last Friday week of the representative of Canada really do bear on the question that has now been raised and on the problem before us of preparing and bringing into force a General Agreement on Tariffs and Trade, the primary object of which will be to enshrine the results of the tariff negotiations which have occupied us here for so long.

CHAIRMAN: The Delegate of Chile.

Mr. GARCIA OLDINI (Chile) (Interpretation): Whatever the result of the further discussion will be on Article XXVIII I want to say that I find the procedure adopted here for this Article somewhat too ingenious, perhaps; and I am afraid that it will bring about a modification of the Tariff Agreements themselves.

This Article, in effect, permits even modifications without the consent of the large majority of Governments.

If I understand well what we have done so far, we want to establish in the Charter basic principles for world trade, and we want to transfer these principles into the Tariff Agreements.

I think that the Text as it is in this Draft is not stable; it does not get sufficient balance; it is certainly a good provisional text, but it will be modified by the World Conference. That means that logically any modification to the Charter should later be transferred also to the Agreements. They should correspond one to the other, but the Text of this Article as it is now probably would prevent such a modification, and I doubt very much if many States will sign the Agreement if this Article ^{stays} it is indicated here.

CHAIRMAN: The Delegate of Brazil.

Mr. PARANAGUA (Brazil): Mr. Chairman, about the considerations made by the Delegate of Chile.

I want to express also certain doubts about the wisdom of this Article. We have here confusions which can put us in a very difficult situation. For example, there are some Articles of the Charter approved here - if I may say so, the Geneva Text - that will be incorporated in the Convention. Then the Havana Text might have a Charter with less obligations or more obligations

concerning this Article. Two-thirds of the contracting parties might decide that the Text might have to be incorporated in the Convention. That means we supersede one Text by the other, and this new Text will be effective if all the Members - that means the countries here present - become Members of the International Trade Organisation.

Well, suppose, for example, that two-thirds decide to change the Text of the Charter incorporated into the Convention, and one-third become Members of the ITO. The situation will be thus. If a country - take, for example, Mexico, it is a friendly country - suppose Mexico becomes a party to the Convention, then the clause of the Charter under the Convention is the Geneva clause; but, becoming a Member of the International Trade Organisation, it is under the obligations of the Havana Text. There you will see a country with two different Charter obligations. The obligations of Havana, which can be less or more than the obligations of the Charter of Geneva; and, under the Convention, also the obligations of Geneva.

It seems to me that we can have conflicting or quite different provisions in the two Charters, and it might happen that there will be very important differences; balance of payments and other questions - very important questions. So I have some doubt about the wisdom of this change of the Charter, in the way it is provided here.

Then there is another thing. The Convention, with the Tariff Agreements and the provisions of the Geneva Charter, would be approved by Parliaments. That does not mean that the new provisions of Havana automatically take the place of the Geneva text; they must be approved again by Parliaments, because the various Parliaments are approving the precise provisions of the Charter, including the Convention. We cannot say: "You approved the Geneva provisions of the Charter. Now we change that by the provisions of Havana; we assume that is also approved." It cannot be. That must be approved again by Parliaments. That means no automaticity in the changing of the provisions of the Charter included in the Convention.

There is another observation about suspending them in whole or in part. Who will make this choice: that part of the provisions will disappear and other parts will stay? It might be that I have no knowledge about that, but I would like to know what criteria we will use to change the provisions as a whole or in part.

Those, Mr. Chairman, are the considerations of a general aspect about these amendments to the Convention.

CHAIRMAN: The Delegate of Canada.

Mr. H.F. ANGUS (Canada): Mr. Chairman, I shall speak quite briefly in order not to break the continuity of the discussion, but I shall refer for a moment to the remarks of the Delegate for Czechoslovakia concerning the stand taken by the Canadian spokesman in New York.

As I understand it, the position at New York concerned the rights, so to speak, of non-Members of the United Nations, and the Canadian Delegate was upholding the very broad principle of equity, that one should not reap where one has not sown; that those who share in the benefits should also share in its burdens. That is

to say, he was taking, with respect to the United Nations, substantially the same position as the Canadian Delegation here took in the discussions on Article 36 concerning the position of non-Members of the projected International Trade Organization.

Just as we said then, that it was a matter of principle and of equity that those non-Members should not have the benefits of the Organization without contributing their share to its support and making the concessions that others had made, and undertaking the obligations that others had undertaken, a somewhat similar position was taken with respect to States not Members of the United Nations who might be invited to attend the World Conference for the purpose of setting up the International Trade Organization.

The suggestion was that the comprehensive purposes of the United Nations prevailed over those of an organization with a limited objective, but there is nothing in that which should affect the signature of the Trade Agreement; the document before us now does not contemplate signature at the moment by a non-Member country which is not a Member of the United Nations. It is a question of an agreement between States which are ready to undertake obligations with one another and to carry out those obligations, and I am inclined to agree with the interpretation of the Delegate for the United Kingdom that the position taken at New York is in no sense hostile to the signature and ratification of the document before us.

M. PIERRE FORTHOMME (Belgium) (Interpretation): Mr. Chairman, we heard several times in the course of these discussions some complaints saying that the basis on which we were discussing now in order to reach these concessions was not a stable basis and that therefore it was adding to the already great difficulties we had to reach satisfactory concessions. The fact that the actual discussions can lead us to something provisional which could be automatically replaced in Havana adds to the difficulties that we already have. We wonder if ^{from} the fact that the Agreement we are going to sign is a provisional one, it must ensue that the negotiations which we are actually having must be provisional too. In fact, at the beginning of these discussions this was not our standpoint, and we consider that in fact if this is the situation we are only wasting our time. If the Agreement is to be provisional until the Charter comes into force definitely does that mean that the concessions we are negotiating here are going to be effective only for a few months? The general idea here was that we are going to negotiate concessions for a long period - three years at least and probably longer. If the concessions themselves are going to be provisional, we are wasting our time and efforts trying to reach an Agreement on those concessions. It has been said that the fact of adding into the general Agreement the text of what I should call the Geneva Charter would perhaps lead us to impose on the future Members of the Organisation the result of our work here, and in fact all the work which has been done within the Working Party was in order to avoid that such a thing would be imposed upon future Members. But what we are speaking of right now is not only to impose the text of the Geneva Charter upon future Members, but to impose in advance something that we do not know, which is the Charter which is going to be accepted in Havana, and this constitutes a greater danger indeed.

When the Working Party wrote into the text of the Agreement some parts of the Charter, it considered that this was a necessary condition in order for all parties to these Agreements to accept the concessions which they were ready to accept, but this way of drafting the Agreement was accepted in order to avoid imposing upon future Members some conditions which they would not have already examined. However, if we replace Part II of the Agreement by something of which we know nothing this is much more dangerous and we would not agree with such a thing.

This is quite different from what we thought would happen. We thought that at the end of the World Conference we would have a different solution. If the result of the discussions in Havana leads us to a text of the Charter which would be similar to the text we are adopting now in Geneva, there would be no difficulty in replacing Part II by the text signed in Havana. If there is to be a difference between the text adopted in Havana and the Geneva text, then a certain liberty should be left to the various countries in order to decide what they want to do.

Different solutions would be possible for them. They could accept, first of all, to introduce into the Agreement the text of the Charter, even if this text were slightly different from the text accepted here, or they could agree to maintain the conditions written in Part II, insofar as these conditions would not violate the text of the Charter, and they could also maintain the Agreement without accepting the Charter, and a further solution would be not to accept the Agreement if the general conditions of the Charter were not acceptable to them.

CHAIRMAN: The Delegate for the Lebanon.

M. M. MOBARAK (Lebanon) (Interpretation): The study submitted by the Czechoslovak Delegation is very interesting and very judicious. It deserves a profound examination. It entails a certain number of questions of principle, and I wish we had had it earlier so that we would have been able to study it before we came to this meeting.

In many parts, it concerns the powers of our own Commission, and, as we already know, the Economic and Social Council has entrusted us with the setting up of a Charter of which the Tariffs Agreement would be a kind of subsidiary. Now, if only tariffs were included in this Agreement, we could sign it here, but there are other conditions included which make it difficult for us to commit our governments.

If these Articles are later on changed at Havana - for instance, if we suppose that Lebanon will be authorised to discuss the Articles of the Charter as a Member of this Party and Syria will not, Syria will only be party to the Tariff Agreement - we can understand that Syria could not sign at Geneva, or they could only do it if the Articles were very similar.

Therefore, in taking into consideration the questions of principle, I would suggest that we postpone the discussions on this Draft until all the delegations have been able to read and study the suggestion of the Czechoslovak Delegation. As I say it contains a certain number of questions of principle and we have to see whether these tariff Agreements can be signed here at Geneva or not in their present form. I believe that we can sign them if we are dealing with tariffs only and if the Articles that contain cannot be substantially changed later on at Havana.

CHAIRMAN: Are there any other comments?

H.E. Z. AUGENHÄLER (Czechoslovakia): Mr. Chairman, I apologise for asking you for the floor again, but I would like to complete the statement we made and perhaps I could make clearer what is in our minds.

With regard to tariff negotiations, we feel that it would be a great loss if those tariff reductions negotiated here were not put into force. We are, on the other hand, greatly concerned by one fact: if we read the Tariff Agreement correctly, it actually means that there is a tendency to create some separate Committee or a Body which would be existing outside the organisms of the United Nations, and which may even be existing beside the International Trade Organization, because Article XXIII says that as soon as the International Trade Organization has been established and is capable of functioning, the contracting parties may discontinue the meetings. It means that the Body may still go on further as an independent and separate Body not subject either to the Economic and Social Council nor to the International Trade Organization but only to the discretion of the countries signatory to this agreement.

On the other hand, we have seen that many countries have all kinds of difficulties in putting this Agreement into force. The difficulties are, in many countries, of a constitutional order, so we would suggest the following procedure: that we sign a Protocol here in which the contracting parties would take upon themselves the obligation to put the negotiated tariff reductions into force in a way which is proper to their constitutional laws.

The best way, to our mind, would be to put those negotiated reductions into force through the channel of existing commercial treaties. I think most countries are bound among themselves by commercial treaties through which they would be able to put them into force.

I agree that it would be better if all those reductions could be put into force at the same time; but I do not think that it is essential. In the years 1918 - 1938 there were still separate commercial treaties; different reductions were not put into force at the same time, but they had the same object as we have here - that is, the general reduction of tariffs. Then, when the I.T.O. is created, the contracting parties would be free to revise their existing commercial treaties in the light of the provisions of the new Charter.

CHAIRMAN: Any other speakers?

Mr. T. OFTEDAL (Norway): Mr. Chairman, I just want to mention that the Norwegian Delegation has today submitted some observations to the Executive Secretary. We hope that these observations will be distributed tomorrow or the day after.

The observations are in line with the statement made by the Norwegian Delegate at the first meeting of this Committee last week. Besides that, we also have some proposals concerning Part III of the Agreement, so with regard to the general view of

the Norwegian Delegation regarding the General Agreement on Tariffs and Trade, I would refer you to that document.

CHAIRMAN: Any other speakers?

If there are no other speakers, it will be necessary to conclude our general debate and resume after we have circulated the Annotated Agenda and can take up Part III of the Draft Agreement, Article by Article.

Mr. E. McCARTHY (Australia): Mr. Chairman, would the Protocol be part of Part III?

CHAIRMAN: The Preamble and the Protocol would come up as part of Part III.

The same applies to the draft form of Schedules contained in document T/153, and any Delegations that have any amendments to submit to the Report on the Schedules should do so before next Thursday.

I think we have exhausted the general debate, if there are no other Delegations who wish to speak on this subject.

I might say, with regard to the suggestion of the Czechoslovak Delegate regarding the signing of the Protocol instead of the General Agreement, that this proposal could be considered when we come to deal with Article XXIV, when we will be dealing with definitive entry into force, or Article XXVII, Amendments, or even Article XXXII, Provisional Application. We can see later at which point in our discussion of the Articles this particular proposal could best be considered.

The Secretariat will prepare the Annotated Agenda, and that will be circulated as soon as possible. In addition, if there are any amendments with regard to the Schedules, they will be

circulated as a separate supplementary Annotated Agenda.

If that procedure is agreed by the Committee, we shall adjourn our discussion until Saturday afternoon at 2.30, when we will take up detailed consideration of the Articles in Part III, commencing with Article XXII.

Is that procedure approved? (Approved)

There being no further business, the meeting is adjourned.

(The meeting rose at 4.20 p.m.)