

HEADS OF DELEGATIONS

SUMMARY RECORD OF MEETING

Held on Wednesday, 3 March 1948 at 10.30 a.m.

Chairman: Mr. S. I. CLARK (Cuba)

(Reference: E/CONF.2/45/Rev.1)

The CHAIRMAN congratulated both the Chairman and individual members of the Co-ordinating Committee on their speed and efficiency in preparing the Report which was now before the meeting.

Mr. SUSTENS (Belgium), Chairman of the Co-ordinating Committee said that the task of the Co-ordinating Committee had been to recommend a compromise solution for differences relating primarily to questions of economic development.

Article 13 had been redrafted to meet some of the points raised by the underdeveloped countries. Sub-paragraph 2 (a) laid down that, if a Member was considering the adoption of restrictive measures which would conflict with any of its contractual obligations under Chapter IV for the purposes of economic development or reconstruction, such Member might obtain a release either through direct negotiations or through resort to the Organization. The principle of prior approval by the Organization had been maintained in the case of measures which would not conflict with contractual obligations. This principle had, however, been modified by the inclusion of certain criteria, fulfilment of which would make authorization automatic. The first two criteria were objective; the latter two called for the exercise of the Organization's judgment.

It had also been laid down that measures should be applied in such a way as to avoid unnecessary damage to the economic interests of any other Member. In all cases other than those dealt with above, the Organization would make the relevant decisions.

In Article 15 the principle of prior approval by a two-thirds majority had been maintained but had been modified by the inclusion of certain automatic criteria in paragraph 4. Paragraph 5 laid down that the Organization might as a condition of its approval require a reduction in an

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unbound most-favoured-nation rate of duty. The provisions of paragraph 6 were designed to ensure that a minimum of injury was done to the interests of Members not parties to the agreement.

Neither a Tariff Committee nor an Economic Development Committee would be established under the proposal; those Members who were not parties to G.A.T.T. would enjoy the benefit of concessions for two years but those concessions would be withdrawn if the Members had not by then become parties. As a result of these changes Articles 17, 70, 81 and certain provisions of the General Agreement on Tariffs and Trade would have to be revised.

The solutions proposed by the Co-ordinating Committee were admittedly a compromise and would probably satisfy no delegation completely, but he believed that the Committee had arrived at the only possible solution.

The CHAIRMAN called on the Heads of Delegations to make their remarks as concise as possible; it would be unnecessary to go into details since minor points could be cleared up in the Committees concerned.

Mr. FERRERO (Peru) called attention to certain mistakes in the Report. The second sentence of the footnote on page 4 should read "it was agreed that the word 'processing' meant the treatment of a primary commodity for the manufacture of semi-finished and finished goods; it would not refer.....". Sub-paragraph 2.(b) on page 12, should be revised to make clear that concessions would only be withdrawn if the Member concerned had been requested to negotiate but no agreement had been reached. Paragraph 5 of page 14 was incorrect since no mention had been made in the discussions of the possible creation of a Tariff Committee in the future.

Mr. HOLMES (United Kingdom) said that sub-paragraph (b) on page 15 should contain some such qualifying phrase as "as from the date of entry into force of the Charter of the International Trade Organization", but this matter could most appropriately be dealt with in the meetings of the contracting parties to the General Agreement on Tariffs and Trade.

He wished to make it perfectly clear that the Report was not in a form which wholly satisfied the Government of the United Kingdom; Article 15 was definitely unsatisfactory because it did not recognize the applicability of certain parts of that Article to the Members of a group with traditional economic ties.

Mr. MULLER (Chile) said that paragraph 7 on page 7 should be revised to make it clear that the timetable covered the matters referred to in paragraph 4 (b).

Dr. CHARLONE (Uruguay) said that thanks to the character of the compromise put forward by the countries of Latin America, it had been possible to overcome the major differences latent in the Conference. He added that the delegates
/of those countries

of those countries wished to record their appreciation of the work accomplished by their representatives on the Co-ordinating Committee.

He then said that countries in the process of industrialization had achieved a great victory in the settlement reached, as for example in the elimination of the Tariff Committee. The Geneva Charter had given the Committee excessive power in respect of tariff policy, which might have jeopardized the small countries' first line of economic defence, their tariff barriers.

He observed that the delegation of Uruguay interpreted the expression "economic region" as referring to geographically neighbouring territories with a certain degree of economic integration.

As regarded Article 15, he said that it was well known that Uruguay had no sympathy with preferences of any kind.

In connection with exceptional measures for economic development, he regretted that the formula decided upon was not so wide as could be desired, if the full rights of the small countries to manufacture the raw materials they produced were to be recognized.

In conclusion he said that in his opinion a political mistake had been made in retaining the prior intervention of the Organization in cases which ought to be left entirely to the judgment of the country concerned. Its magnitude would become apparent when parliaments were called upon to consider the Charter.

Mr. ARES (Argentina) expressed his regret at having to record the disagreement of his delegation with the proposed texts of Articles 13 and 15. The Organization would acquire the necessary strength through its practical operations and should not be granted the powers which were laid down in the Report. No other organization had ever been granted such powers and their possession by the Trade Organization would make ratification a difficult problem. When the vital national interests of a country were at stake that country had the right to decide for itself on its course of action. Further, the guarantees and safeguards for the underdeveloped countries were insufficient and were less than those obtained at other International Conferences. If these Articles were adopted his delegation reserved the right to express its dissenting view in Plenary Session.

Mr. HOLLOWAY (Union of South Africa) asked for clarification of the term "contracting parties" occurring in paragraph 7 (b) of the Report (page 14).

Mr. WILGESS (Canada) replied that paragraph 1 of Article XIV of the General Agreement provided that whenever the contracting parties acted jointly,

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it was so designated by capitalization of the words "contracting parties". Since no governments were applying the provisions of Article XXVI, the only contracting parties were those applying the General Agreement pursuant to the protocol of provisional application; there were, therefore, not two groups at the present time.

Mr. HOLLOWAY (Union of South Africa) said in that event he would not comment on paragraph 7 of the Report since the matter would not be referred to his government.

With all the components of the text taking shape, including the compromise reached by the Co-ordinating Committee, to which he would not disagree, it was now possible to visualize the Havana Charter; he regretted that the time and knowledge invested had not produced better results. His government had not been in a position to follow the detailed work of the Conference; and he did not anticipate with great pleasure the task of defending the present document.

Mr. HASNIE (Pakistan) expressed appreciation of the work of the Co-ordinating Committee. He was concerned with the wide discretion given the Organization in paragraph 2 (a) (1) of Article 13. He suggested a drafting amendment to paragraph 4 (b) (1) to conform with Article 18: "...when the Charter comes into force". Pakistan could not utilize the provisions of sub-paragraphs (1) and (11) of paragraph 4 (b) because it had no new industries, and sub-paragraph (11), despite the Footnote, left much to be desired. He suggested the word "processing" be substituted by the phrase used in Article 54 (b) to the effect that the development of industries was to promote primary industries "based on domestic production". For instance, would the manufacture of soap, which was based on a primary commodity, be covered by sub-paragraph (11). His point would to some extent be met if in the footnote the word "treatment" should be substituted by the word "use" and the phrase "for manufacture of" should be substituted by the phrase "for manufacturing".

Failure to establish an Economic Development Committee was disappointing to underdeveloped countries, and because of the manner in which the Executive Board was constituted, it was doubtful whether his government would support a Committee set up under its aegis.

The CHAIRMAN said the specific questions raised by the delegate of Pakistan might better be considered by the appropriate Sub-Committees.

Mr. GUTIERREZ (Cuba) suggested that the Cuban amendment (E/CONF.2/6/Add.10) to insert the word "maintenance" in paragraph 1 of Article 13 should be considered or that a note be added to the effect that the word "development" covered cases where it was necessary to apply

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governmental measures toward the maintenance of industry or agriculture.

Article 15 was acceptable, although the establishment of new preferences was inconsistent with the elimination of old preferences.

Regarding Annex III, it was not possible to change the text since the United Kingdom amendment to Article XXV (B) of the General Agreement provided that entry into force must be established by the Contracting Parties at their meeting.

Mr. POLITIS (Greece) agreed in principle with the compromise solution offered by the Co-ordinating Committee but urged that in the future such Committees not hold closed meetings.

Mr. BRUNDZINSKI (Poland) stated that had the Working Party been permitted to continue its constructive work on Article 15 the Co-ordinating Committee would have had only to work toward eliminating some few controversial points. As it resulted, the present text was not so good as either the text of the Working Party or that presented by the United States delegation. The latter contained no provisions which had not been thoroughly discussed in the Working Party, but the present text introduced the following controversial points:

1. Compensation granted to other parties by the party receiving preferential treatment (paragraph 4 (d)),
2. The question of the binding of tariffs and margins of preference.
3. The provisions for termination of the Agreement (paragraph 4 (f)).
4. The situation in which the Agreement was not likely to injure substantially, the interest of Members not parties to the Agreement (paragraph 6 (a)).
5. The interpretative note to paragraph 4 (a).

Point 1

The omission of the phrase from paragraph 4 (d) that if such compensation were not practicable, preferential tariff advantages might be utilized provided they were progressively eliminated, might jeopardize the introduction of new preferences and make paragraphs 4, 5, and 6 valueless. The arguments that compensatory concessions might be obtained, or the lowering of the most-favoured-nation rate might be practicable, or that contractual rights to a preferential concessions would stimulate a new industry were well founded but in normal circumstances a preferential arrangement would remain one-sided, and that one side would receive nothing to balance the loss of important customs revenues. Countries, poor because of underdevelopment of war devastation, would only be faced with one more handicap in their plans for economic development. A time limit of three years and a limitation of /the margin

the margin of preference to a certain percentage of the most-favoured-nation rate should alleviate the fears expressed concerning compensation granted on products not conforming to paragraph 4 (b).

Points 2 and 4

The proposed paragraph 5 was a poor substitution for the text submitted by the United States. The new text did not bind negotiated rates and, therefore, made it possible for third parties to block preferential arrangements; moreover, it provided for approval of margin of preference thus making automatic approval impossible. It omitted the binding of the preferential margin after approval and introduced the illogical provision for reduction of unbound most-favoured-nation rate considered excessive.

Point 3

By omitting the word "reasonable" and its United States definition, automatic criteria was again removed and the Organization would be allowed to define the purposes and the necessary period of time. Further, the preferences simply disappeared instead of being negotiable on a mutually advantageous basis.

The main objectives of the Working Party had been to make the criteria objective and to prevent blocking of justified preferential arrangements by third parties. The American proposal was satisfactory in that respect but the text presented by the Co-ordinating Committee was not. Both texts failed to take practical considerations into account by prohibiting the introduction of compensatory preferences. The United States text of paragraphs 4 (f) and 5 should be followed and paragraph 4 (d) should be amended as indicated above.

Mr. JIMENEZ (El Salvador) said that the compromise solutions put forward by the Co-ordinating Committee were satisfactory to his delegation because they did not demand of his country impossible concessions which would stultify its economic development. The Central American countries no longer insisted on their right to establish a special preferential arrangement, although such an arrangement would not have jeopardized the expansion of international trade. They would accept the new text of Article 15, in spite of its restrictions, because it would prevent the renewal of unjustified preferences.

Mr. BRAGA (Brazil) expressed the view that the scope and complexities of the issues before the Conference made it impossible to achieve a solution which would be satisfactory to all delegations. In a spirit of compromise, therefore, he accepted the results of the work of the Co-ordinating Committee.

The position of the Brazilian delegation concerning preferences was well known to the Conference. It had always regarded them as a hindrance
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to the expansion of trade rather than as an aid to economic development. To meet the views of the Latin American countries in general, and the special cases of the Central American and Arab countries, he was prepared to approve the new text of Article 15. The other solutions put forward by the Co-ordinating Committee could be regarded as entirely satisfactory.

Mr. DOMOND (Haiti) pointed out that his country suffered severely as a result of preferences and that no provision had been included in the Charter to take into consideration this situation. He hoped that it would be possible to insert some words in Article 17 which would give satisfaction to his Government.

Mr. COOMBS (Australia) felt that the texts put forward by the Co-ordinating Committee represented the best practicable solution which would be acceptable to a sufficiently large number of countries including those the adherence of which was necessary for the establishment of ITO.

Mr. HAIDER (Iraq) drew attention to the fact that his country formed part of a region which for centuries had been the richest in the world and which was at the cross-roads of international commerce. To raise the standards of living of their peoples, the countries of that region had formed the Arab League and had put into effect a series of development programmes. As those programmes had only been initiated recently, the Charter and, in particular, the passages of the Charter which had been referred to the Co-ordinating Committee, had considerable implications in their connection.

The Arab countries recognized that the work of the Co-ordinating Committee represented a compromise and to that end they were prepared to accept the new text of Article 13 and the solution put forward with respect to the proposed Economic Development Committee. Article 15, however, was of particular interest to the Arab countries because until the first World War they had formed one economic unit and when, after the war, they had become separate units, they had reserved their right to establish a preferential system. The League of Nations had recognized that right although the Arab countries had been forced to grant most-favoured-nation treatment to certain countries on a non-reciprocal basis.

Because of the implication contained in the last sentence of paragraph 6 (d), that one country could refuse to recognize the right of the Arab countries to form a single economic unit, Mr. Haider requested its deletion. He also wished it to be understood that the terms of paragraph 4 (f), would not cancel that right. In connection with paragraph 5, he asked for clarification of the meaning of the word "proposed". In his opinion, if a Member maintained its most-favoured-nation rate of duty at the same level at which it had been before the agreement, that Member was not "proposing" a rate of duty, and therefore,

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the approval of the Organization would not be required. It was only when the most-favoured-nation rate of duty was raised in anticipation of a preferential agreement or in connection with it, that a rate of duty was being "proposed", which would be subject to the approval of the Organization.

In paragraph 6 (a), he suggested the substitution of the phrase "cause substantial injury to the total external trade of Members" for the words "injure substantially the interests of Members".

He felt that paragraph 6 (c) contained a form of veto. If all but one Member had approved the establishment of a particular preferential agreement, that Member should not be allowed to prevent the agreement because of its "economic position."

Mr. Haider said that he would be unable to approve the new text of Article 15 until the points which he had raised had been dealt with and the final result approved by his Government.

Mr. MAHADEVA (Ceylon) associated himself with the remarks of the representative of Pakistan concerning the Economic Development Committee. He recognized that the work of the Co-ordinating Committee represented a compromise but had to reserve his position concerning it until he had received instructions from his Government.

The PRESIDENT felt that the overall settlement proposed by the Co-ordinating Committee was satisfactory to a substantial majority of the meeting and therefore proposed that it be accepted.

Mr. MALIK (India) said that while he was willing to accept the overall settlement, he would still have to reserve his position on Article 94, now Article 83 (a) and Article 18 (a).

Mr. DIASCOLI (Venezuela) wished it to be clearly understood that the overall settlement which he was prepared to accept referred only to the solutions offered by the Co-ordinating Committee.

Mr. KUNTER (Turkey) reserved his position concerning Article 13 pending instructions from his Government. He also reserved his position on Article 15 pending a decision on the Turkish amendment to Article 16. He wished it to be recorded that in his view it would have been desirable to have had an Economic Development Committee.

Mr. PEREZ (Dominican Republic) reserved his position on the texts put forward by the Co-ordinating Committee pending instructions from his Government.

Mr. SAWAF (Syria) said that while on the whole he was prepared to accept the overall settlement, he had to associate himself with the remarks of the representative of Iraq concerning Article 15.

/Mr. BRUNDZINSKI (Poland)

Mr. BRUNDZINSKI (Poland) reserved the right to raise the question of Article 15 in the appropriate Sub-Committee.

Mr. ZAFRA (Philippines) reserved his position pending instructions from his Government.

Mr. HASNIE (Pakistan) said that, subject to the remarks which he had made earlier in the debate, he would accept the proposed overall settlement.

The PRESIDENT announced that he considered the overall settlement approved by the meeting. The various texts would be referred to the appropriate Sub-Committees and as the substance of them had been accepted, it would be purely a question of drafting.

The representatives of Poland, United Kingdom and Iraq reserved their right to raise points of substance in connection with the Co-ordinating Committee texts.

Mr. MacCARTHY (Ireland) reserved his position on the Co-ordinating Committee texts.

Mr. MADJID (Afghanistan) reserved his position on the Co-ordinating Committee texts pending a decision on Article 75.

Mr. SAWAF (Syria) said that his acceptance of the Co-ordinating Committee texts was subject to the understanding that the various Sub-Committees would decide whether the various points raised in connection with them were substantial or drafting changes.

Mr. AUGENTHAULER (Czechoslovakia), supported by the representative of Australia, moved the adjournment of the meeting.

The meeting rose at 1.35 p.m.
