

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

Summary Record

Eleventh Meeting of the Tariff Agreement Committee  
held Friday, 5th September, 1947 at 2.30 p.m. in  
the Palais des Nations, Geneva

CHAIRMAN: Hon. L. D. WILGRESS (Canada)

Article VII - Formalities connected with Importation and  
Exportation.

The Committee approved the inclusion of the text of this  
Article as given in E/PC/T/189.

Article VIII - Marks of Origin

The Committee adopted the text of this Article with the  
addition, at the suggestion of Dr. AUGENTHALER (Czechoslovakia)  
of paragraph 2 of Article 36 of the Charter as the first  
paragraph of the present Article.

Article IX - Publication and Administration of Trade Regulations.

The inclusion of the text of this Article was approved  
without discussion.

Article X - General Elimination of Quantitative Restrictions.

Mr. MELANDER (Norway) felt that Articles X to XIV should be  
supplemented by the inclusion in Part II of the articles corres-  
ponding to Articles 5 and 7 of the Charter which deal with the  
related questions of balance of payments, maladjustments and  
external deflationary pressure. He would be prepared to accept  
the inclusion of Articles X to XIV if these additional  
Articles were to be added with appropriate modification of the  
texts of the latter Articles to adapt them to the form of the  
General Agreement. Dr. COOMBS (Australia) and Dr. AUGENTHALER

(Czechoslovakia) supported Mr. MELANDER's suggestion. M. ROYER (France) suggested that there might be an Interpretative Note relating Articles XXI and XXIII of the General Agreement to the situations described in Articles 5 and 7 of the Draft Charter. At the request of Mr. BROWN (United States) and BARON DE GAFFIER (Belgium), the Committee agreed to defer further consideration of Articles X to XIV inclusive in order that representatives on the Committee might consult with their Delegations.

Article XV - Subsidies

In connection with the discussion of this Article Dr. GUTIERREZ (Cuba), Mr. JABBARA (Syria) and Mr. OLDINI (Chile) raised the question of the treatment in connection with the General Agreement of reservations attached to articles in the Charter. The CHAIRMAN indicated that it had previously been decided to defer the question of reservations until Article XXVII of the General Agreement came up for discussion. He remarked that from the previous discussion of this subject there appeared to be a substantial body of opinion to the effect that the only reservations which might be accepted at the signature of the General Agreement would be reservations the inclusion of which had been generally accepted. The CHAIRMAN states that pending further discussion of the question of reservations, Delegations should not consider it necessary to mention individual reservations which they might have made to corresponding articles of the Charter.

After some discussion of the possible need for including other provisions from the Draft Charter relating to subsidies, the inclusion of Article XV was approved and it was considered unnecessary to add additional provisions since Article XV itself covered both export and domestic subsidies adequately for the purpose of the General Agreement.

Article XVI - Non-discriminatory Treatment on the Part of State Trading Enterprises

Mr. MELANDER remarked that in connection with a matter which was under consideration by the Sub-committee on Article II a question might arise later concerning the inclusion not only of Article 30 from the Charter (which corresponds to Article XVI in the General Agreement) but possibly also Article 31. The inclusion of Article XVI was approved.

Article XVII - Adjustments in connection with Economic Development.

Dr. GUTIERREZ and Mr. ADARKAR (India) favored the inclusion not only of Article 13 of the Charter (corresponding to Article XVII of the General Agreement) but also the substance of Article 14. After discussion the Committee decided that the United States and Cuban Delegations in consultation should draft and submit to the Committee a proposal for incorporating in Article XVII those aspects of Article 14 of the Charter relating to the maintenance during a transition period of non-discriminatory protective measures for the establishment, development or reconstruction of particular industries.

Article XVIII - Emergency Action on Importation of Particular Products.

The inclusion of this Article was approved.

Article XIX - General Exceptions

The inclusion of this text, with some adjustments in the punctuation and translation, was approved. At the suggestion of M. ROYER the Committee agreed to divide the present text into two articles, the first of which would consist of the last part of the Article commencing with Paragraph II and would be headed "General Exceptions"; and the second of which would consist of Paragraph I and would be entitled "Security Exceptions".

Article XX - Consultation.

The inclusion of this Article was agreed.

Article XXI - Nullification or Impairment.

Mr. JOHNSON (New Zealand) pointed out that as there would be several protocols the reference in this Article to "The accompanying protocol" and similar references elsewhere in the Charter would have to be corrected.

The inclusion of this Article was agreed.

PART III

Article XXII - Territorial Application - Frontier Traffic - Customs Unions.

Mr. FLETCHER (Australia) proposed that Paragraph 1 might better be included in Part II since he would not wish this paragraph, insofar as it affects arrangements between Australia and its territories, to be interpreted as requiring compliance to the extent of modifying existing legislation. Mr. SHACKLE

(United Kingdom) felt that this Article was solely a definition article and did not give rise to the problem mentioned by Mr. FLETCHER. Mr. FLETCHER suggested that his point might be discussed after consideration of the suggestion by the Czechoslovak Delegation that Paragraph 3, 4, 5 and 7 (corresponding to Paragraphs 3, 4 and 6 of the version of the Draft General Agreement in E/PC/T/135) should be deleted.

Dr. AUGENTHALER indicated that his Delegation objected to the apparent creation of a body, even independent of the Economic and Social Council, with powers to approve or not to approve the formation of Customs Unions despite the fact that such Unions might represent the results of Anschluss or similar action. Mr. ROYER felt that the intention of these paragraphs was similar to that of corresponding provisions in commercial treaties; i.e. that a recognition of the existence of a Customs Union involves a derogation of the principle of the most-favored-nation provision. He felt that the Committee could rightly concern itself with the determination that a Customs Union exists and with the economic consequences of the existence of such a Customs Union. The political significance of a Customs Union would be a matter for all Members of United Nations to consider and it should be open to any Member of the United Nations to bring the facts before whatever organization is competent. Mr. BROWN felt that these paragraphs merely provided the mechanism for preventing, if necessary, a Member from evading its obligations through the guise of entering into a Customs Union when in fact it is unlikely that a Customs Union will eventuate.

Dr. AUGENTHALER questioned also the words "this Agreement shall supersede any prior national obligations" since under such language the other party to an existing commercial treaty could escape from its obligations under such treaty on the ground that the rights of a contracting party to the present Agreement under such a previous treaty had been renounced.

Mr. OLDINI felt that since Paragraph 4 included in square brackets certain provisions which had not been approved in the Draft Charter, debate on this paragraph should be adjourned pending the decision of the Committee on the question of automatic supersession of the text of relevant parts of the General Agreement by the corresponding provisions of the final Charter. Mr. ADARKAR favored the deletion of Paragraphs 4 and 5 altogether since any other solution would prejudice a matter which had been left over for consideration by the World Conference. If these paragraphs were to be deleted pending action by the World Conference, approval for regional preferential arrangements would have to be sought under whatever procedure is laid down in Paragraph 6 of Article XXIII. He added that if provision is made for eventual automatic substitution of corresponding articles from the final Charter it should be noted that Article 15 should find a place in Part II of the General Agreement. Mr. SHACKLE, Mr. BROWN and Dr. AUGENTHALER agreed that Paragraphs 4 and 5 should be deleted. Dr. AUGENTHALER indicated that he would not press for the deletion of Paragraph 3. Mr. CHEN (China) agreed with the proposed deletion of Paragraphs 4 and 5 and suggested that Paragraph 7 also should be eliminated.

The Committee agreed tentatively to the suppression of Paragraphs 4 and 5, withholding a final decision until the Representative of Chile could be present.

Concerning the suggestion of the Australian Delegation that in Paragraph 3(b) the words "put into operation" should replace

the word "institute" the Committee decided to retain the original language which corresponds with the Charter.

Resuming discussion of the point raised by the Australian Representative concerning Paragraph 1, Dr. COOMBS indicated that their proposal to transfer Paragraph 1 from Part III to Part II was based on the possibility that in its present location this Article might involve Australia in obligations with regard to relationships between it and its various separate customs territories, and possibly in action regarding relations with the states which constitute the Commonwealth of Australia and also on the fact that the Article contains provisions which in his view were similar in character to other articles already included in Part II. Mr. SHACKLE restated his opinion that this paragraph does not involve any new substantive obligations but is really a definition paragraph. The Committee agreed that the Australian proposal should be deferred until the Committee confirmed the tentative decision taken with regard to Paragraphs 4 and 5.

Article XXIII - Joint Action by the Contracting Parties

As Mr. BROWN indicated that the United States Delegation was circulating specific suggestions as to the texts of Paragraphs 4, 5 and 6, the Committee agreed to defer consideration of this Article until the commencement of the next meeting.

At the suggestion of Mr. SHACKLE, supported by Dr. AUGENTHALER, the Committee agreed that Representatives of Burma and Southern Rhodesia be allowed to take part in the discussion of Articles XXIV and XXVIII. The Representative of Ceylon was not present in Geneva, and accordingly could not be invited to attend.

The meeting rose at 6 p.m.