

THIRD COMMITTEE: COMMERCIAL POLICY

SUMMARY RECORD OF THE FIFTEENTH MEETING (III.a)

Held at the Capitol, Havana, Cuba
Friday, 19 December 1947, at 4.00 p.m.

Chairman: Mr. L. D. WILGROSS (Canada)

1. COMPOSITION OF JOINT SUB-COMMITTEE OF COMMITTEES II AND III

The CHAIRMAN stated that as a result of discussion in Committee II, the composition of the joint sub-committee of Committees II and III was proposed as follows: Argentina, Australia, Belgium, Brazil, Canada, Chile, El Salvador, France, Iran, Poland, Sweden, Syria, United Kingdom, United States, Venezuela.

Mr. GARCIA-OLDINI (Chile) felt that the list did not reflect the division of opinion expressed in Committee; in addition to the so-called neutrals, there should be at least equal representation of majority and minority opinions.

Mr. ATAMAN (Turkey) agreed with the representative of Chile and suggested adding Afghanistan and Greece.

Mr. LEDDY (United States of America), supported by Mr. GUERRA (Cuba), suggested the total be increased to sixteen and the views evenly distributed.

Mr. DOMOND (Haiti), supported by Mr. PEREZ (Dominican Republic), requested membership on the joint sub-committee because of the special position of their countries. He pointed out that several members listed in Annex A were proposed as members of the joint sub-committee.

The CHAIRMAN stated he would take the discussion into account and would consult again with the Chairman of Committee II. In making the selection suggested, it had not been attempted to reflect the exact division of opinion, but rather to take account of divergent views together with broad geographical distribution. It would not be possible to have every interested Member represented, but those who had submitted amendments or proposals would be given opportunity to be heard by the joint sub-committee.

/2. SUB-COMMITTEE A

2. SUB-COMMITTEE A (ARTICLES 16, 17, 18, 19)

It was agreed that the delegation of Brazil should be represented on Sub-Committee A when discussing Articles 18 and 19.

3. NEW PROPOSAL TO ARTICLE 16.

It was agreed that the proposal of the delegation of Czechoslovakia relative to Article 16, paragraph 4, be referred to the joint sub-committee of Committees II and III.

4. ARTICLE 32 (FIRST READING)

It was agreed that the information to be received relating to existing conventions on transit would be referred to the sub-committee which would study Article 32.

Paragraph 1

Mr. PELLIZA (Argentina) stated that his country did not discriminate in respect of shipping, but wished to reserve its right to grant advantages, not harmful to others, to promote national enterprises; the amendments (Items 2, 4) were submitted for that purpose. The establishment of rigid rules in the Charter for international transit was to be questioned; the problem could best be dealt with by the forthcoming International Maritime Conference.

Mr. AZIZ (Afghanistan) explained that the addition of the words "assembling and dis-assembling" (Item 3) was intended to cover goods difficult to transport.

Mr. HASNIE (Pakistan) while in sympathy with the amendment, wanted a clear definition of the words; processing should not be included.

Mr. AZIZ (Afghanistan) replied that the amendment had in mind vehicles and machines: the sole purpose was to facilitate transport of goods destined for Afghanistan.

Mr. LAMSVELT (Netherlands) was not of the opinion that general articles on transport were out of place in a Trade Charter. But the Convention of Barcelona was affected by the Article as drafted and the Conference would have to decide which provisions were preferable.

Mr. AZIZ (Afghanistan) felt that if international free trade was desired, all exceptions to free transit should be avoided.

Mr. GARCIA-OLDINI (Chile) stated that his amendment (Item 5) did not restrict the present text of paragraph 2 but would allow members to reach agreement as to the provisions of Article 32 among themselves.

Paragraphs 3 and 4: no comments.

Paragraph 5

Mr. BENES (Czechoslovakia) attached the greatest importance to the

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footnote to paragraph 5 and wished it to be maintained.

Mr. LAMSVELT (Netherlands) asked that the note be deleted: Belgium, Luxembourg and the Netherlands did not want discriminatory traffic charges re-established on routes to German ports. The words "on the same route" would allow such discrimination. It was an oversight that the Netherlands had previously made no reservation on this paragraph.

Mr. SUEMENS (Belgium) agreed with the statement of the representative of the Netherlands.

Paragraph 6

Mr. LECUYER (France) stated that France for many years had had a special surtax on products of non-European countries entering France from non-French ports. It was hoped that future negotiation would bring about their elimination but during the transition period of re-establishment and development of ports they were a necessary measure; his amendment (Item 7) acknowledged that situation.

Mr. MORTON (Australia) could not see why, for the purpose stated, the clause in paragraph 6, so necessary to everyone party to a preferential system, should be deleted.

Mr. LEDDY (United States of America) asked whether the French amendment would authorize a country to deny most-favoured-nation treatment under Article 16 (1) on goods clearly originating in another member country, but in transit through a country not entitled to most-favoured-nation treatment.

Mr. LECUYER (France) replied that it was not a tariff but a surtax added to the normal tariff and did not therefore come under Article 16.

Mr. SUEMENS (Belgium) expressed his regret that the French amendment had been introduced. He hoped that, should France consider re-establishment of that surtax, she would enter into negotiations with Belgium and the Netherlands.

Mr. LAMSVELT (Netherlands) agreed with the statement of the representative representative of Belgium and added that if there was any deletion in paragraph 6, he would prefer deletion of the whole of the second sentence.

Paragraph 7: no comment.

New Paragraph

Mr. DJEPPARA (Syria) stated that the Afghanistan amendment (Item 9) would provide certain exceptions to the proposed new paragraph submitted by the delegation of Costa Rica (Item 8) so that seasonal movement would not subject livestock to customs duties.

Mr. TINCCO (Costa Rica) stated that livestock in transit to Costa Rican ports used pasturage for which a small tax was levied; his
/amendment

amendment was submitted to allow the continuance of that practice.

It was agreed to submit all proposals and amendments to Article 32 to the sub-committee studying that Article.

5. ARTICLE 35 (FIRST READING)

Paragraph 1

Mr. ATAMAN (Turkey) believed the present text did not intend to exclude charges other than for services rendered. However, if this was the purpose, he must insist on the amendment: Turkey had other charges which would be difficult administratively to consider as internal taxes.

Mr. PELLIZA (Argentina) said that the drafting change (Item 38) proposed using the word "dues" to clarify the Spanish text.

Mr. FERRERO (Peru) supported the Turkish amendment.

Paragraph 4: no comments.

Paragraph 5

Mr. GONZALEZ (Uruguay) stated that his amendment (Item 42) would facilitate the established practice of temporary commercial interchange of advertising, commercial travellers and samples.

Mr. WASHINGTON (Brazil) stated that if the substance of the footnote to Article 35 of the Draft Charter was retained (Item 44) and it was understood that charges in foreign exchange were subject to decisions of the International Monetary Fund, his delegation would withdraw its reservation (Item 47). Brazil had its particular problem before the Fund and would accept the Fund's decision.

Mr. GARCIA-OLDINI (Chile) observed a difference in the French, English and Spanish text of the footnote and requested that this be called to the attention of the General Committee.

New Paragraph

Mr. GONZALEZ (Uruguay) stated that the proposed new paragraph to Article 35 (Item 45) was submitted to recognize the principle that when an offence was no more than administrative, the incident should end, without further consequences, with the payment by the offender of the appropriate duties and fines.

Mr. HOLLOWAY (Union of South Africa) felt that the proposal went too far. Under it the fact that similar offences had been committed previously, could not be taken into account.

Mr. CORIAT (Venezuela) pointed out that in the English text of the amendment submitted by Uruguay (Item 45) the word "surcharges" should correctly read "fines".

/Mr. AZIZ

Mr. AZIZ (Afghanistan) explained that his delegation's amendment (Item 46) was designed to assure freedom of international transit particularly for countries without access to the sea.

Mr. HASNIE (Pakistan) fully agreed with the intention underlying the Afghanistan amendment but thought such questions were better amicably settled between the two neighbouring countries concerned without the intervention of the Organization. Furthermore, free zones raised political as well as economic issues.

It was agreed to refer all amendments to Article 35 to the Sub-Committee,
6. ARTICLE 36 - FIRST READING

Mr. PELLIZA (Argentina) pointed to an error in the Argentine amendment (Item 48) as contained in the Revised Annotated Agenda. It was proposed to delete not the whole of Article 36, but only paragraph 7; he was now satisfied to support the Chilean amendment instead of insisting on the Argentine proposal.

Mr. GARCIA-OLDINI (Chile) thought that the draft text was too nebulous and unclear; the Chilean amendment (Item 49) would make it more precise and serve the real purpose of the Article.

Mr. LECUYER (France) emphasized the importance of marks of origin for his country. The Chilean amendment seemed to him much narrower than the original text with which everybody could have agreed.

Mr. GARCIA-OLDINI (Chile) observed that the proposed amendment only stated more honestly and clearly what the aim of the procedure was, without covering up with words the lack of substance. If a product was properly labelled, the ultimate purchaser could not be deceived. On the other hand, certain generic names were in universal usage not for geographical reasons but rather because of a similarity or identity of the manufacturing processes involved.

Mr. PELLIZA (Argentina) explained that in his country the phrase "Made in Argentina" was obligatory for all products produced there.

Deception in regard to the country of origin was impossible in countries which were enforcing legislation such as envisaged by the Chilean amendment. It was agreed to refer all amendments to Article 36, including the Cuban amendment (Item 3 of document E/CONF.2/C.3/6) to the Sub-Committee.

7. ARTICLE 37 (FIRST READING)

Mr. SEIDENFADEN (Denmark) inquired whether presentation of a bill in Parliament could be considered as publication within the meaning of paragraph 2; he wished to have it confirmed that this was the opinion of the Conference. Mr. LEDDY (United States of America) and the CHAIRMAN

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believed that that interpretation was correct.

Mr. FELLIZA (Argentina) said, in commenting on the Argentina proposal for deletion of the last part of paragraph 3 (c) (Item 50), that it was difficult to determine the degree of objectivity and impartiality of an administrative procedure. It rested more on good faith than on institutions; and since the standards of Article 37 had been fully defined, the deletion proposed by him would allow the Organization to proceed with greater freedom of action.

Mr. BARGAT (Egypt) reported the procedures enforced by his country with reference to paragraph 3 (a) and (b) and inquired whether they could be considered adequate. The CHAIRMAN suggested that the Sub-Committee examine the matter, to which the Committee agreed.

It was agreed to refer all amendment to Article 37 to the Sub-Committee.

8. ARTICLE 38 (FIRST READING)

Mr. MELANDER (Norway) observed that his amendment (Item 53) was of a technical nature and designed to prevent overlapping of information between the Organization and other agencies of the United Nations. It was agreed to refer all amendments to Article 38 to the Sub-Committee.

The CHAIRMAN drew attention to the Report of the Council of the International Chamber of Commerce (document E/CONF.2/8), which on pages 24 and 25 contained suggestions regarding Articles 35, 36, 37, and 38, which the Sub-committee would wish to consider.

9. ARTICLE 39 (FIRST READING)

Mr. HAKIM (Lebanon) stated that the amendment submitted jointly by the delegations of Lebanon and Syria (Item 54) would be presented in Sub-Committee in a somewhat modified form.

Mr. LEDDY (United States of America) remarked that the original draft of the Article had been weakened to such an extent that the Sub-Committee might consider the possibility of deleting the Article entirely. It was agreed to refer Article 39 with all amendments to the Sub-Committee.

10. APPOINTMENT OF SUB-COMMITTEE

The CHAIRMAN then proposed, as Members of the Sub-Committee on Section E of Chapter IV, the representatives of Afghanistan, Argentina, Australia, Canada, Cuba, France, Lebanon, Mexico, Netherlands, Norway, Pakistan, Portugal, United Kingdom, United States, Uruguay.

This was agreed to. The CHAIRMAN having obtained agreement for the Sub-Committee to meet simultaneously with the Sub-Committee studying Articles 16 to 19, announced that its first meeting would be held on Monday, 22 December 1947. Committee III-a would also meet again on Monday, 22 December 1947, at 4.00 p.m. to discuss Section F, Special Provisions, Articles 40 to 43.

The meeting rose at 6.50 p.m.
